

AGENDA ITEM NO. 11

COUNCIL MEETING

11/3/2011

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

October 4, 2011

FROM: JERRY P. DYER, Chief of Police
Police Department

BY: ANDREW HALL, Captain
Police Department

SUBJECT: AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE A THREE YEAR CONTRACT WITH LOCAL TOW OPERATORS AND UPDATE THE MASTER FEE SCHEDULE WITH UPDATED ADMINISTRATIVE RELEASE FEES FOR IMPOUNDED VEHICLES.

RECOMMENDATIONS

It is recommended that Council authorize the Chief of Police to enter into and execute a three year contract with local tow operators for the towing and storage of vehicles impounded by the Fresno Police Department. It is also recommended that the council authorize an update to the master fee schedule as it relates to administrative fees paid to the City for the release of impounded vehicles.

EXECUTIVE SUMMARY

The new contract with the tow operators was necessary to allow for the release of impounded vehicles at the individual tow yards. Under the current contract, the collection of administrative fees and release of vehicles occur at Police Headquarters. This change in procedure was required due to a lack of civilian personnel to release vehicles at the Police Department's Records Bureau.

Due to the proposed changes in the vehicle release procedures, a new fee study was conducted based on the new proposed tow contract. The Department retained the services of FCS Consulting Group to complete the new study for administrative fees associated with impounded vehicles. The completed report is attached to this Council Report for review.

BACKGROUND

Due to a reduction in personnel and hours of operation in the Records Bureau, it has become necessary to explore other options for the management and release of stored and impounded vehicles. Currently, Records Bureau is inundated with citizens who are obtaining a release for their impounded vehicles. This is both time

consuming and overwhelming for Records Bureau personnel under current staffing levels, which are attributed to current budget shortfalls.

An earlier "White Paper", prepared for the Mayor, presented the option of an outside company managing our police impound program. This option was met with considerable resistance from local tow companies. The Police Department met with representatives from our contracted tow companies and worked towards a solution to better manage our vehicle impound program. This proposed solution will allow local tow companies to continue providing tow services for the Police Department. This newly formed tow service agreement will create a better managed impound program and enhance service to the public. Additionally, this proposal will allow us to continue using local businesses and eliminate the criticism associated with hiring an out-of-town company to oversee the Police Department's vehicle impound program.

The proposed contract will allow the release of impounded vehicles directly from the tow yard, seven days a week. Currently, to obtain a vehicle release citizens have to wait up to two hours at police headquarters to pay their administrative fees and then drive to the impound yard.

During a review of existing tow operators, we found that many of the local tow yards were not in compliance with zoning, permits and the Director's Code for operating a tow yard. All tow operators will be required to bring their tow yards into compliance with these regulations to participate in this new contract. The Planning Department is working with the tow companies to assist them with meeting these standards. The Planning Department has agreed to give the tow companies a reasonable period of time to complete any major improvements that cannot be completed before the beginning of this new contract.

Under this proposed contract, the tow companies would collect the City's administrative fees from the vehicle owners at the point of release. The tow operators will pay the City an equivalent franchise fee for all vehicles not picked up by their owners. FCS Consulting Group completed a comprehensive study to update the administrative costs associated with vehicle impounds and established the new administrative / franchise fees. The last study was conducted in 2003.

The new tow service agreement also mandates that tow companies utilize DTS Software. This new dispatch and towing software will allow the Department to manage, control, and audit contracted tow companies. This software will provide an internet portal to assist citizens with locating their impounded vehicles and allows them to view an invoice associated with the impounded vehicle before going to the tow yard. DTS is currently working with local tow operators and the Police Department to ensure a smooth transition when this new contract is implemented.

Once the new contract is in place, the Police Department's Records Bureau will be able to better serve the public when they come to police headquarters for business other than to obtain a vehicle release. This proposal will also free up records clerks to attend to other pressing duties that are not being handled today.

After considering all options available to us, we believe this proposed solution will meet the needs of the Police Department, the needs of the community, and provide an increased level of service to the public.

FISCAL IMPACT

Utilizing 2010 police impound figures the new tow service agreement and change in administrative fees will have no impact to the general fund. Should vehicle impounds decrease due to changes in vehicle impound laws or a decrease in traffic safety efforts due to personnel reductions, there would be a corresponding decrease in impound revenue.

rt/AH
10/04/11

Attachment: 1.) New Tow Service Agreement
2.) FCS Consulting Group, Vehicle Impound Cost of Service and Fee Study

**CITY OF FRESNO
NON-EXCLUSIVE FRANCHISE TOW AGREEMENT
FOR FRESNO POLICE DEPARTMENT**

This Non-exclusive Franchise Tow Agreement (TSA) is entered into effect on the "effective Date" set forth below, at Fresno, California, between the City of Fresno, a municipal corporation (City) and [Tow Operator Name], [Legal Identity] (the Tow Operator).

This Agreement including all attachments contains rules and regulations that a tow company agrees to comply with in order to participate in the tow operations of the City of Fresno Police Department (FPD). Participation in the FPD Rotation Tow Program (Tow Program) is voluntary. Compliance with all of the terms and conditions of the Agreement is mandatory for tow companies participating in the Tow Program. A Tow Operator, by agreeing to participate in the Tow Program, is not acting as an agent for FPD or City when performing services under this Agreement.

1. Governing Law and Venue

This Agreement shall be governed by, and construed enforced in accordance with, the laws of the State of California excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be the City of Fresno, California.

2. Entire Agreement

This Agreement, its attachments and exhibits, when accepted by the Tow Operator either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Agreement between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on City unless authorized by City in writing.

3. Amendments

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on City unless authorized by City in writing.

4. Assignment or Sub Contracting

The terms, covenants, and conditions contained herein shall apply to the Parties. Furthermore, neither the performance of this Agreement nor any portion thereof may be assigned or subcontracted by Tow Operator without the express written consent of City. Any attempt by Tow Operator to assign or subcontract the performance or any portion thereof this Agreement without the express written consent of City shall be invalid and shall constitute a breach of this Agreement.

5. Patent/Copyright Materials/Proprietary Infringement

Unless otherwise expressly provided in this Agreement, Tow Operator shall be solely responsible for obtaining a license or other authorization to use any patented or copyrighted materials in the performance of this Agreement. Tow Operator warrants that any Software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Tow Operator agrees that, in accordance with the more specific requirement below, it shall indemnify, defend and hold City and City Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

6. Non-Discrimination

In the performance of this Agreement, Tow Operator agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any Tow Operators to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Tow Operator acknowledges that a violation of this provision shall subject Tow Operator to all the penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

7. Termination

In addition to any other remedies or rights it may have by law, City has the right to terminate this Agreement without penalty immediately with cause and either party may terminate after thirty (30) days written notice without cause, unless otherwise specified. Cause shall be defined as any breach of agreement or any misrepresentation or fraud on the part of the Tow Operator. Exercise by City of its right to terminate the Agreement shall relieve City of all further obligation.

8. Consent to Breach Not Waiver

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

9. Remedies Not Exclusive

The remedies for breach set forth in this Agreement are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Agreement does not preclude resort by either Party to any other remedies provided by law.

10. Independent Tow Operator

Tow Operator shall be considered an independent Tow Operator and neither Tow Operator, its employees nor anyone working under Tow Operator shall be considered an agent or an employee of City. Neither Tow Operator, its employees nor anyone working under Tow Operator, shall qualify for workers' compensation or other fringe benefits of any kind through City.

11. Performance

Tow Operator shall perform all work under this Agreement, taking necessary steps and precautions to perform the work to City's satisfaction. Tow Operator shall be responsible for the professional quality, technical assurance, timely completion, and coordination of all documentation and other goods/services furnished by Tow Operator under this Agreement. Tow Operator shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of City required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by sub-Tow Operators.

12. Indemnification

- A.) Tow Operator shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and authorized volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Tow Operator, or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Tow Operator's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or authorized volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its officers, officials, employees, agents or authorized volunteers.
- B.) If Tow Operator should subcontract all or any portion of the work to be performed under this Agreement, Tow Operator shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and authorized volunteers in accordance with the terms of the preceding paragraph.
- C.) This section shall survive termination or expiration of this Agreement.

13. Insurance

- A.) Throughout the life of this Agreement, Tow Operator shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager. The following policies of insurance are required:
 - 1.) COMMERCIAL GENERAL LIABILITY insurance which shall be on the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury and \$2,000,000 aggregate for products and completed operations and \$2,000,000 general aggregate.

- 2.) GARAGEKEEPERS LEGAL LIABILITY insurance which shall include coverage for vehicles in the care, custody, and control of the Tow Operator with limits of liability of not less than \$500,000 per occurrence for property damage.
 - 3.) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be on the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto) with limits of not less than \$1,000,000 per accident for bodily injury and property damage.
 - 4.) ON-HOOK/CARGO insurance which shall include coverage for vehicles in tow with limits of liability based on the size of the tow truck, which are as follows:
 - a) Class A tow truck.....\$50,000
 - b) Class B tow truck.....\$100,000
 - c) Class C tow truck.....\$200,000
 - d) Class D tow truck.....\$250,000
 - 5.) WORKERS' COMPENSATION insurance as required under the California Labor Code.
 - 6.) EMPLOYERS' LIABILITY insurance with minimum limits of \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.
- B.) Tow Operator shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Tow Operator shall also be responsible for payment of any self-insured retentions.
- C.) The above described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation, change or reduction of coverage, except for the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation, change or reduction of coverage. In the event any policies are due to expire during the term of this Agreement, Tow Operator shall provide a new certificate and all applicable endorsements evidencing renewal of such policy prior to the expiration date of the expiring policy(ies) to the Chief of Police or his/her designee. Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, Tow Operator shall file with the Chief of Police or his/her designee a new certificate and all applicable endorsements for such policy(ies).
- D.) The General Liability, Automobile Liability and Garagekeepers Legal Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Tow Operator's insurance shall be primary and no contribution shall be required of City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Tow Operator shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to City's execution of the Agreement.
- E.) The fact that insurance is obtained by Tow Operator shall not be deemed to release or diminish the liability of Tow Operator, including, without limitation, liability under the indemnity provisions of this Agreement. City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Tow Operator. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Tow Operator, its principals, officers, agents, employees, persons under the supervision of Tow Operator, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.
- F.) Upon request of City, Tow Operator shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.
- G.) If at any time during the life of the Agreement or any extension, Tow Operator fails to maintain the required insurance in full force and effect, all work under this Agreement shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement.
- H.) If Tow Operator should subcontract all or any portion of the work to be performed, Tow Operator shall require each

subcontractor to provide insurance protection in favor of the City, its officer, officials, employees, agents and authorized volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors certificates and endorsements shall be on file with the Tow Operator and City prior to the commencement of any work by the subcontractor.

14. Bills and Liens

Tow Operator shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Tow Operator shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Tow Operator shall promptly procure its release and indemnify, defend, and hold City harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

15. Change of Ownership

Tow Operator agrees that if there is a change or transfer in ownership of the Tow Operator's business prior to completion of this Agreement such change will terminate this Agreement. This includes but is not limited to; changes in Corporate Board Members, Managers, Directors, Treasurer, Trustees, etc.

- A.) Tow Operator shall be directly involved in the day-to-day operations of their business and shall not be directly involved in the towing-related business of any other tow company on, or applicant for, the Tow Rotation List. Co-mingling of operations, business, offices, board members, etc. is strictly prohibited.
- B.) If terminated or suspended, Tow Operator and/or owner at the time of the suspension or termination, shall not be eligible for a rotation listing for the duration of the suspension or termination. The provision applies to the Tow Operator working in any capacity within any tow business or operating any tow business and to the tow business even if operated under new ownership.
- C.) Tow Operator shall not share equipment with any other tow company on, or applicant for, the Tow Rotation List, excluding equipment which may be unavailable due to repairs or when there is a need for equipment replacement and written approval is obtained from the FPD.

16. Force Majeure

Tow Operator shall not be in breach of this Agreement caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Tow Operator gives written notice of the cause of the delay to City within thirty-six (36) hours of the start of the delay and Tow Operator avails himself of any available remedies.

17. Confidentiality

Tow Operator agrees to maintain the confidentiality of all City and City-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Agreement. All such records and information shall be considered confidential and kept confidential by Tow Operator and Tow Operator's staff, agents and employees.

18. Compliance with Laws

Tow Operator represents and warrants that services to be provided under this Agreement shall fully comply, at Tow Operator's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by City in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by City. Tow Operator acknowledges that City is relying on Tow Operator to ensure such compliance. Tow Operator agrees that it shall defend, indemnify and hold City and City Indemnitees harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.

19. Pricing

The Agreement price shall include full compensation for providing all required services in accordance with the Scope of Work attached to this Agreement, and no additional compensation will be allowed therefore, unless otherwise provided for in this Agreement. Tow Operator shall pay the City Franchise Fees as listed in Attachment "B", or "City Administrative / Franchise Fees", in accordance with Paragraph 25 of Attachment "A".

20. Terms and Conditions

Tow Operator acknowledges that the undersigned has read and agrees to all terms and conditions included in this Agreement.

21. Severability

If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

22. Calendar Days

Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

23. Attorney Fees

If either party is required to commence any proceeding or legal action to enforce any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable Attorney's fees and legal expenses.

24. Interpretation

This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Agreement by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Agreement.

25. Authority

The Parties to this Agreement represent and warrant that this Agreement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

26. Employee Eligibility Verification

Tow Operator warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Tow Operator shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Tow Operator shall retain all such documentation for all covered employees for the period prescribed by the law. Tow Operator shall indemnify, defend with counsel approved in writing by City, and hold harmless, City, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Tow Operator or City or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

27. Additional Terms and Conditions

- A.) **Term of Agreement:** This Agreement shall commence upon execution of all necessary signatures, and shall be effective for three (3) years from that date, unless otherwise terminated by City.
- B.) **Fiscal Appropriations:** This Agreement is subject to and contingent upon applicable budgetary appropriations being made by the City for each year during the term of this Agreement. If such appropriations are not forthcoming, the Agreement will be terminated without penalty. Tow Operator acknowledges that funding or portions of funding for this Agreement may also be contingent upon the receipt of funds from, and/or appropriation of funds by City. If such funding and/or appropriations are not forthcoming, or are otherwise limited, City may immediately terminate or modify this Agreement without penalty.
- C.) **Conflict of Interest (Tow Operator):** Tow Operator shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interest of City. This obligation shall apply to Tow Operator, Tow Operator's employees, agents, relatives, and third parties associated with accomplishing the work hereunder. Tow Operator's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of City.
- D.) **Tow Operator Work Hours and Safety Standards:** Tow Operator shall ensure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and City safety and health regulations and laws.
- E.) **Orderly Termination:** Upon termination or other expiration of this Agreement, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Agreement. In addition, each Party will assist the other Party in orderly termination of this Agreement and the

transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

- F.) **Reprocurement Costs:** In the case of default by Tow Operator, City may procure the service from other sources and, if the cost is higher, Tow Operator will be held responsible to pay City the difference between the Agreement cost and the price paid. City may make reasonable efforts to obtain the prevailing market price at the time such goods and services are rendered. This is in addition to any other remedies available under law.
- G.) **Authorization Warranty:** Tow Operator represents and warrants that the person executing this Agreement on behalf of and for Tow Operator is an authorized agent who has actual authority to bind Tow Operator to each and every term, condition, and obligation of this Agreement and that all requirements of Tow Operator have been fulfilled to provide such actual authority.
- H.) **Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail; or (3) through electronic means such as, email or the DTS Software System.
- I.) **Data – Title to:** All materials, documents, data or information obtained from City data files or any City medium furnished to Tow Operator in the performance of this Agreement will at all times remain the property of City. Such data or information may not be used or copied for direct or indirect use by Tow Operator after completion or termination of this Agreement without the express written consent of City. All materials, documents, data or information, including copies, must be returned to City at the end of this Agreement.
- J.) **Usage:** No guarantee is given by City to Tow Operator regarding usage of this Agreement. Usage figures, if provided, are approximate, based upon the last usage. Tow Operator agrees to supply services and/or commodities requested, as needed by City, at prices listed in the Agreement, regardless of quantity requested.
- K.) **Tow Operator's Records:** Tow Operator shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Tow Operator in accordance with generally accepted accounting principles. These records shall be stored at the Tow Operators place of business for a period of three (3) years after final payment is received by City.
- L.) **Audits/Inspections:** Tow Operator agrees to permit City's authorized representative (including auditors from a private auditing firm hired by City) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Tow Operator for the purpose of auditing or inspecting any aspect of performance under this Agreement. The inspection and/or audit will be confined to those matters connected with the performance of the Agreement including, but not limited to, the costs of administering the Agreement.

City reserves the right to audit and verify Tow Operator's records before or after final payment is made.

Tow Operator agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Agreement or by law. Tow Operator agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Tow Operator agrees to include a similar right to City to audit records and interview staff of any subTow Operator related to performance of this Agreement.

Should Tow Operator cease to exist as a legal entity, Tow Operator's records pertaining to this Agreement shall be forwarded to the Chief of Police or his/her designee.

28. Disputes-Agreement

- A.) The Parties shall deal in good faith and attempt to resolve potential disputes informally.
 - 1.) Tow Operator shall submit to the Chief of Police or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Agreement, unless City, on its own initiative, has already rendered such a final decision.
 - 2.) Tow Operator's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, Tow Operator shall include with the demand a written statement signed by a senior official indicating the that demand is made in good faith, that the supporting

data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which Tow Operator believes City is liable.

- B.) Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Tow Operator agrees to diligently proceed with the performance of this Agreement. Tow Operator's failure to diligently proceed shall be considered a material breach of this Agreement.

Any final decision of City shall be expressly identified as such, shall be in writing, and shall be signed by the City Hearing Administrative Officer. If City fails to render a decision within ninety (90) days after receipt of Tow Operator's demand, it shall be deemed a final decision adverse to Tow Operator's contentions. City's final decision shall be conclusive and binding regarding the dispute unless Tow Operator commences action in a court of competent jurisdiction.

29. Breach of Agreement

The failure of the Tow Operator to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the City may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Agreement undertake any of the individual actions or any combination of the following actions:

- 1.) Afford the Tow Operator written notice of the breach and ten calendar days or such shorter time that may be specified in this Agreement within which to cure the breach;
- 2.) Suspend and/or remove Tow Operator from the rotation;
- 3.) Terminate the Agreement immediately, without any penalty.

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Signature Page

The Parties hereto have executed this Agreement.

Tow Operator:

By: _____ Title: _____
Print Name: _____ Date: _____

Tow Operator*:

By: _____ Title: _____
Print Name: _____ Date: _____

*If a corporation, the document must be signed by two corporate officers. The first signature must be either the Chairman of the Board, President, or any Vice President. The second signature must be the secretary, an assistant secretary, the Chief Financial Officer, or any assistant treasurers. **In the alternative, a single corporate signature is acceptable when accompanied by a corporate document demonstrating the legal authority of the signature to bind the company.**

City of Fresno,

A municipal corporation

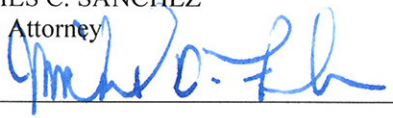
By: _____ Title: Chief of Police
Print Name: _____ Date: _____

By: _____ Title: City Clerk
Print Name: _____ Date: _____

APPROVED AS TO FORM

JAMES C. SANCHEZ

City Attorney

By:  _____ Title: Deputy City Attorney
Print Name: Michael D. Flores _____ Date: October 20, 2011

ATTACHMENT A SCOPE OF WORK

1. Scope of Work

Tow Operator shall perform the towing, and storage of vehicles as directed by the City, and in addition, such other services as provided in this Scope of Work, and shall provide necessary storage facility, tow vehicles, labor, materials, equipment, machinery, and tools. The Tow Operator shall comply with all State laws and regulations, applicable to tow units and impound, towing, storage, selling or junking of vehicles. Tow operators must follow all guidelines set forth by equipment manufactures recommendations as to their use and care of all towing related equipment. All permits and licensing fees as specified under California Vehicle Code (CVC) 34620 and California Vehicle Code 34334 shall be in full force and effect at all times during this Agreement. Any violation of this section will be considered a material breach of the Agreement and may result in immediate termination of this Agreement.

2. Towing Services and Duties

It shall be the duty of the Tow Operator, when so directed by the City, to provide prompt tow service for vehicles which are taken into custody by the City. This includes vehicles involved in collisions or disabled by any other cause, abandoned in public places or on private property. Vehicles impounded for evidence, impeding the flow of traffic, or which for any other reason, are within the jurisdiction of the Fresno Police Department. As required by law, Tow Operators are to remove from the street all debris resulting from said collisions and to clean the immediate area of such street. It shall also be the duty to provide for the safety and security of those vehicles and the contents thereof. These duties are inherent to the job and are to be included in the price of the basic tow bill.

The tow truck operator shall provide a business card to the registered owner or driver for the vehicle being towed. The business card shall contain the name, address and phone number of the tow company as well as the link to the vehicle search system in DTS as follows: www.findmytow.com

Tow truck operators and/or drivers will not be permitted to drive an impounded or recovered stolen vehicle or vehicle intended for storage from an FPD rotation call or special operation. Any exceptions must be at the direction of the FPD officer in charge of the scene and should be limited to repositioning the vehicle to allow for towing.

The City has designated two (2) tow companies (one (1) primary company and one (1) secondary company) for evidence impound tows and no other rotation tow company shall maintain custody over these vehicles at any time. If an officer impounds a vehicle for evidence and a non-preference rotational tow is dispatched, it is the responsibility of the tow driver to verify with the officer on scene as to whether a vehicle is to be held for evidence. If it is determined that the vehicle is to be held for evidence, the tow driver must immediately notify the officer on scene that the company is not authorized to handle evidence impounds and an evidence tow company shall be dispatched. Tow Operator shall then contact the Tow Unit on the same business day, or within the next business day if tow occurs after regular business hours. Acceptance of an evidence tow by a non-designated evidence tow company will result in disciplinary action and full financial responsibility for all tow and storage fees for each violation.

If terminated or suspended, Tow Operator and/or owner at the time of the suspension or termination, shall not be eligible for a rotation listing for the duration of the suspension or termination. The provision applies to the Tow Operator working in any capacity within any tow business or operating any tow business and to the tow business even if operated under new ownership.

Tow Operator shall not share equipment with any other tow company on, or applicant for, the Tow Rotation List, excluding equipment which may be unavailable due to repairs or when there is a need for equipment replacement and written notice has been obtained from FPD.

3. Special Operations

FPD conducts special operations coordinated through the Traffic Bureau throughout the year that requires tow companies at the location of the special operation. Tow companies on the Tow Rotation List that are in good standing with FPD may be invited to participate in these operations provided they are willing to remain with the special operation until its conclusion and forfeit any rotational tow calls (FPD, California Highway Patrol, or other) received during the duration of the operation. "Good standing" shall mean that Tow Operator has not violated, or is not in violation of the terms of this Agreement, the provisions of the Fresno Municipal Code (FMC), State, or Federal law. All special operations tows will be subject to the provisions of this Agreement. Tow Operator shall respond to a special operation with a flatbed tow truck with the capability of towing 2 vehicles. No ride alongs will be allowed on any special operations unless the ride along is the Tow Owner or a Tow Driver who is in training and has been approved by FPD.

4. Signage

The storage yard or business office shall have a sign that clearly identifies it to the public as a towing service. The sign shall have letters that are clearly visible to the public from the street and must be visible at night. All storage facilities must be accessible to City personnel 24 hours per day and 7 days per week. The Tow Operator will provide customer service between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday for the release of vehicles except for the following City recognized holidays or as directed by the Chief of Police or his/her designee.

New Year's Eve
Martin Luther King Day
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day

After hours the Tow Operator shall provide at least one person at a call station to respond and release vehicles within 30 minutes. Tow Operator shall maintain all signage required pursuant to CVC Sections 22850.3 and 22651.07 and include an after-hours contact phone number for Tow Operator.

5. Response Time

Tow Operator shall respond to calls 24 hours a day, seven days a week, within the maximum response time limits as established by the Chief of Police or his/her designee. A reasonable response time is 30 minutes or less, except during peak hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., (Monday through Friday), when the required response time will be extended to 45 minutes or less. Tow Operator shall respond with a tow truck of the class required to tow the vehicle specified by the DTS System.

6. Non-Response

The Tow Operator shall update the DTS System at the time of dispatch to a tow rotation request. If the Tow Operator is either unable to respond or unable to meet the maximum response time, the tow operator shall immediately update the DTS System accordingly. If, after accepting the call, the Tow Operator is unable to respond or will be delayed in responding, the Tow Operator shall immediately update the DTS system accordingly.

To decline or refuse to respond will be considered a non-response. Each non-response will be immediately documented in the DTS System. Each non-response will be logged by the DTS System and reviewed by the City. If the fault for the non-response is attributed to other than the Tow Operator, the Tow Operator will be placed back in the rotational list and called at the next opportunity in line.

One such breach, determined to be the fault of the Tow Operator, will be grounds for written reprimand which may be subsequent to a meeting between the Tow Operator and the City. A second breach within 12 month period may be grounds for a (30) thirty-day suspension of this Agreement. A third violation within a 12 month period will be considered a material breach of the Agreement and may result in immediate termination of this Agreement.

In the case of suspension or termination, all vehicles then in storage at the time of the suspension or termination remain protected under this Agreement as City's impounds and the Tow Operator is so bound. The City will have the option to remove and or transfer stored vehicles.

When a Tow Operator will be temporarily unavailable to provide services due to preplanned/scheduled activity, such as a vacation, maintenance, medical leave, etc., the Tow Operator will notify City at least 24 hours in advance. Failure to notify the City will be considered a non-response and a material breach of this agreement.

7. Storage Responsibilities

It shall be the duty of the Tow Operator to provide impound and other storage service for all vehicles as directed by the City. The Tow Operator shall be responsible for all vehicles, accessories and equipment thereon and all personal property therein stored by Tow Operator. It shall be the Tow Operators' duty to protect such stored vehicles, accessories, equipment, and property against all loss or damage by fire, theft or other causes. The Tow Operator will have available for review by City personnel, all permits and proof of compliance to all local zoning, special use, conditional use and special requirements, laws and regulation. It is the responsibility of the Tow Operator to ensure vehicles are stored in a secured facility.

8. Size and Location of Storage Facility

The tow yard shall be located within the City of Fresno's "Metropolitan Area." Metropolitan area is defined as within the borders of Copper Ave to the north, American Ave. to the south, DeWolf Ave. to the east, and Chateau Fresno to the west. Tow Operator shall be responsible for the security of vehicles and property at the place of storage. At a minimum, a 6 foot fence or enclosed secured area for outside storage. A minimum of 5,000 square feet or room for 20 vehicles shall be provided. All tow yards located with the City of Fresno shall be in compliance with the FMC, current Directors Class #208 and shall follow the current Development and Resource Management Department's Policy and Procedure C-002. If the tow facility is located outside the City of Fresno, the tow operator is required to provide written proof that the yard is in compliance with the authorizing jurisdiction. Tow Operator is responsible for the reasonable care, custody, and control of any property contained in towed or stored vehicles. The storage facility and business office will be located at the primary storage yard and shall be maintained in a functional, clean and orderly fashion. The facility shall have a telephone, on-site fax machine and the necessary computer equipment to properly run DTS software and to send and receive email.

In the event of criminal activity at a storage facility, the City may require the Tow Operator to take measures to assist in preventing such crimes. These measures could include, but are not limited to the yard being illuminated during darkness, with security type lighting, to such a degree that visual observation of the entire yard may be accomplished at all times, improved fencing and or security patrols.

All vehicles stored or impounded as a result of a tow ordered by the City shall be towed directly to a towing service storage lot unless the City, or in the case of a citizen assist person legally in charge of the vehicle, request that it be taken to some other location.

All vehicles towed as a result of action taken by the City will be stored at the Tow Operator's principal place of business unless directed otherwise by the City's Tow Coordinator. Vehicles stored at an auxiliary storage facility, will be considered a breach of Agreement. The Tow Operator shall not remove personal property from a stored vehicle. If the registered owner removes personnel property from a stored vehicle, the Tow Operator will maintain documentation of such and will require a signed receipt from the registered owner for property released. The Tow Operator shall immediately notify the City if any contraband, weapons or hazardous materials are found in the vehicle(s).

9. Enclosed Facility

The Tow Operator may maintain, without charge to the City or any other person, separate and enclosed garage facilities no less than 1000 square feet of clean working space. The facility must be constructed to include a roof and at least four walls of substantial design to withstand the elements and protect the vehicles from the weather. The facility should have a concrete floor and sufficient lighting. This inside facility must be located at the Tow Operator's primary storage yard. This inside facility is not required to qualify for the City's rotation, however, when inside storage is requested for a particular vehicle, the next Tow Operator in line meeting the needs of the City's request will be used.

10. DTS Requirements

Tow Operator shall utilize the most recent, updated and upgraded Dispatch & Tracking Solutions software program (DTS), to dispatch and track, via a web-based Internet connection. Tow Operators will be required to enter the towed vehicle information as instructed by the City. This information must be entered into the DTS System by the Tow Operator before the 24 hour storage clock will start. Once the required information is entered into DTS, the DTS system will then automatically start the 24 hour storage timer. At no time will a vehicle be released, leaned or junked from impound without all required data fields being entered into the DTS system by the Tow Operator. All City tow requests shall be made utilizing this program. Failure at any time to have the Dispatch & Tracking Solutions program in full operation shall cause the immediate removal of the Tow Operator from the tow rotation and be grounds for immediate termination by City. Tow Operator must enter into a separate agreement, or license for the Dispatch & Tracking Solutions software program with the owner of that proprietary software. The City shall not provide the Dispatch & Tracking Solutions software program, any licensing or sub-licensing thereof or any intermediary services for the procurement by Tow Operator of the Dispatch & Tracking Solutions software program. This Agreement shall not be executed by the City until Tow Operator has demonstrated to the City's satisfaction compliance with the requirements set forth herein. Tow Operator shall be liable for all fees, charges, prices, rates and service charges required from Dispatch & Tracking Solutions. DTS shall be utilized in "real time" and all entries should reflect as such. Invoices shall be used from DTS when releasing vehicles and be pursuant to Section 22651.07 of the CVC. The only Tow Operator personnel authorized to utilize and access DTS are those that have fully complied with the provisions set forth in Section 12, "Tow Operator Personnel" of the Agreement. If the Tow Operator is not in FULL compliance with the above stated requirement, the Tow Operator will be removed from the City towing rotation.

11. Official Notification by City Regarding Tow

Official notification by City regarding tow services is considered any form of written, email, verbal instructions or notifications received from an authorized City employee or electronic notice from the Dispatch & Tracking Solutions

program. If the Tow Operator receives verbal instructions or notifications from a City employee the Tow Operator must respond to City, by 5:00 p.m. (PST) of the next business day.

12. Tow Operator Personnel

A.) Conduct

The Tow Operator shall perform the services required of him in an ethical, orderly manner, endeavoring to obtain and keep the confidence of the public. At no time will the Tow Operator or his agent or any employee of the Tow Operator exhibit any of the following behavior: rudeness, or otherwise being uncooperative, argumentative, threatening, incompetent or acting in a dangerous manner with any City employee, or with any member of the public. The City reserves the right to cancel an individual tow assignment, if in the opinion of the City, the Tow Operator is acting in a rude, uncooperative, argumentative, threatening, incompetent or dangerous manner. The City also reserves the right to cancel an individual tow assignment if in the opinion of the City the Tow Operator is likely to damage the vehicle for which the tow service was called. Other examples of unacceptable behavior include but are not limited to: profanity, abusive language, disconnecting telephone calls for public inquiries regarding a tow, threatening, aggressive, or assertive language, failure to provide timely information or documents in response to a public or City inquiry, lack of respect to any City personnel or member of the public; destruction or damaging of evidence, failure to comply with the reasonable request of a member of the public, failure to release vehicle in a timely manner, failure to make appointment for release of vehicle during evening or weekend hours, failure to promptly be on site at time of appointment for release of vehicle during evening or weekend hours, impeding an investigation or any other conduct which the City deems as unprofessional.

If the Tow Operator is found to be in violation of this conduct clause, the City will cancel the Tow Operator and request the next Tow Operator in rotation. Any such behavior as set forth above shall be considered a material breach of this Agreement and may be grounds for immediate suspension or immediate termination by the City, without penalty.

B.) Personnel Appearance

Tow Operators shall be required to furnish their employees with a distinctive company uniform. Each uniform shall have the firm's name, as well as the employee's name, in a conspicuous place. The tow company's name and driver's first name shall be clearly visible at all times; meaning that protective or inclement weather outer garments must meet this standard. Each employee shall have sufficient uniforms so as to maintain a neat, clean appearance at all times. Minimum requirements for uniforms include a shirt, long pants, and appropriate safety shoes. All drivers shall be in uniform before any towing or service operation begins. No wording, designs, photos, gestures, or anything that could be considered offensive or obscene to the general public shall be displayed by the Tow Operators or on any part of the uniform. Dress standards are required in order to project a professional and positive image to the public.

All employees must be neat, clean and well groomed in appearance. In order to ensure a professional appearance, all tattoos must be concealed by operators while working. Personnel will be required to conceal any tattoos with gloves, collars, long sleeves, or by other means acceptable to the City. Facial tattoos of any variety are not permitted. No facial piercings shall be worn while on duty.

Drivers shall wear safety vests or reflectorized clothing that conforms to Occupational Safety and Health Administration (OSHA) requirements. Alternatively, the OSHA safety requirements may be incorporated into the uniform, jacket, or rain gear, as long as these items are worn as the outermost garment.

C.) Unlawful Activity

The Tow Operator or it's employee's shall not be involved, nor shall the Tow Operator or it's employee's become involved in any agreement or activity whether verbal, or written or conveyed in any other manner, any activity or business venture which may be construed as unlawful. If the City deems the involvement to be unlawful, the City may immediately terminate this Agreement.

The Tow Operator shall not provide any direct or indirect commission, gift or any compensation to any person or public or private entity, in consideration of arranging or requesting the services of a tow truck as provided in section 12110 of the California Vehicle Code.

No Tow Operator will be involved or solicit any compensation of any kind including but not limited to involvement with any other company or business that might result in income or consideration as a result of any activity initiated by the City.

An example of such a prohibited involvement could include but is not limited to: financial reimbursement by auto-body repair business for referrals, or towing directly from the scene of a collision to the auto-body shop without prior unsolicited approval or request by the registered owner, driver or insurance company representative of the damaged vehicle; kickback to or from a security company or homeowner's association for "finding" or towing a vehicle from a location, whether private

property, public, off street parking facility or a public roadway. Violation of this provision shall be grounds for immediate termination by City, without penalty.

D.) Personnel Licenses

Tow Operators providing services under this Agreement, including tow truck drivers, dispatchers and other office personnel, will have sufficient knowledge, experience and capability to ensure safe and proper discharge of their service responsibilities. It will be the responsibility of the Tow Operator to ensure that all of its personnel will be properly licensed in accordance with sections 12500, 12520, and 12804.9 of the CVC. All tow truck drivers and tow truck operators shall be enrolled in the "Pull Notice" program as defined in CVC 1808.1 et seq.. Drivers must complete a CHP approved Tow Operator Course every 5 years and copies of completion of the course shall be sent to the City. All Tow Operators and personnel shall have no criminal record which would preclude them from being placed in a position of trust while in the service of a law enforcement agency or any crime listed below under the heading of "Criminal Record."

E.) Fingerprints

All new employees shall submit their "LiveScan" fingerprint samples through the City prior to being awarded this Agreement, for the purposes of verifying their criminal history with the Department of Justice.

Failure to provide information regarding the identity of the employee, or anyone else with a financial interest in the company will result in termination of this Agreement. The Tow Operator will provide the City with information regarding any change in employee status immediately and update DTS to reflect such changes. Failure to comply may result in further disciplinary action, and will be considered a violation.

After being awarded the Agreement, no person shall be employed by the Tow Operator or perform any service under this Agreement until the background record check is completed and reviewed by the City and said employee has received their identification badge from the City.

Any employee of the Tow Operator that has left employment with said Tow Operator and returned and been rehired must complete an additional background check before performing services on this Agreement

F.) Criminal Record

A conviction of anyone, with a financial interest in the Tow Operator, or any employee of the Tow Operator, including but not limited to any of the following, may be cause for denial of application or termination of this Agreement:

- Any crimes listed in 290 CPC
- DUI-Within 5 years of the Date of Fingerprinting
- Vehicle theft
- Fraud
- Stolen Property
- Crimes of Violence
- Any felony crime relating to narcotics or any controlled substance
- Any other crimes enumerated in 2432.3 of the CVC
- Actively on parole or on any form of probation
- Crime of moral turpitude
- Sex, Arson, Narcotics Registrant
- Other felony conviction

The City is not required to provide any reason, rationale or factual information in the event it elects to deny application or remove any of Tow Operator's personnel from providing services for the City under this Agreement. Tow driver or employee applicants denied under this section may appeal to the Chief of Police or his/her designee. All decisions by the Chief of Police or his/her designee are final.

In the event the Tow Operator or employee is convicted or is under investigation, the Tow Operator may be given the opportunity to replace that employee without prejudice to the Agreement. Nothing shall prohibit the City of Fresno from removing, suspending or terminating the Agreement. It will be the responsibility of the Tow Operator to provide the City with updated information regarding any illegal activity, arrest(s) or conviction of any Tow Operator and or employee. For the purpose of this section, any conviction or plea of guilty or nolo contendere, even to any lesser-included offense are considered convictions. Failure to provide information regarding the identity of the employee, or anyone else with a financial interest in the company will result in termination of the Agreement. Failure to provide information to the City of any information regarding the conviction of any of the above crimes may also result in termination of the Agreement.

G.) Identification Badges

Each tow truck driver or employee of the Tow Operator shall wear, in plain view an identification badge, authorized and issued by the City to that employee, while on any call for service where the City is involved. If a tow truck driver responds to a scene without his authorized name badge, the tow truck driver will be dismissed from the scene and the next Tow Operator in rotation will be called. Failure to carry an identification badge will be considered a violation as stated in Section 31, "Disciplinary Action," of this Agreement. The purpose of these badges will be to identify those employees of the Tow Operator who have been fingerprinted by the City and have passed the record check by the Department of Justice.

All identification badges are the property of the City and will be returned by the Tow Operator to the City within 48 hours of an employee's separation. Tow Operator will provide a current list of all staff including drivers, dispatchers, etc. Anytime there are any changes to this list, the City is to be notified by the next business day and provided with an updated and current list.

13. Tow Operator Licensing and Certification

All licensing and certifications required by Federal, State and local authorities shall be maintained current and valid at all times as required in California Vehicle Codes: 34507.5, 34600 et seq, 34620, and 12111, and sections 7231 et seq, of the California Revenue and Taxation code. Failure to have any required license or certification; including any driver who fails to have an appropriate class of license may be grounds for immediate termination by City, without penalty.

14. Inspection

All real property and improvements thereon, and all vehicle facilities, equipment and materials used by the Tow Operator in the performance of the services required herein shall be open to inspection by the City or their authorized representative, and will be subject to no less than one annual inspection. Additional inspections may be conducted without notice during normal business hours. Inspections may include, but are not limited to, all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Tow Operator for the purpose of auditing or inspecting any aspect of performance directly related to this Agreement. In the event that the City determines that the real property and improvements thereon are insufficient, derelict or fail to meet the requirements as called out in this Agreement, this Agreement may be terminated by City immediately, without penalty.

15. Vehicle and Equipment Requirements

Tow vehicles will be maintained in compliance with the provisions of sections 24605, 25253, 25300, 27700 and 27907 of the California Vehicle Code. Tow vehicles will be of at least 14,000 lbs. GVWR with dual rear wheels, with the ability to tow two (2) vehicles. Tow vehicles must have two-way communication capabilities and the ability to communicate and connect with the DTS System at all times. The Tow Operator shall have equipment capable of towing from off-road areas, towing from underground facilities, and recovery services with an adjustable boom with at least five tons of lifting capacity. In addition to the conventional wheel lift towing capabilities, the Tow Operator shall maintain at least one or more flatbed or rollback trucks with a minimum of 50 feet of cable, and the required safety equipment. Unless otherwise specified by the City, all Tow Operators shall respond to a tow service request with a flatbed or rollback truck as specified above.

A 3-axle or 25-ton truck is not required equipment. However, Tow Operators that possess this equipment will be placed on a heavy-duty tow rotation list.

All trucks must have the required emergency lighting, portable stop and tail lamps, a broom, shovel, fire extinguisher (rating 4-B, C), a utility light, reflective triangles, a large pry-bar, covered trash cans with approved absorbent, rags, unlocking equipment, dollies (boom trucks), chains, and or tie downs.

Wheel lift trucks will maintain at least 100 feet of cable and all safety equipment as required by the manufacturer.

Tow vehicles must have a cable winch of sufficient size and capacity to retrieve vehicles that have gone off traveled portions of roadways into inundated areas or other inaccessible locations. Winches must have visible ID tags designating the model, make, serial number, and rated capacity.

All tow trucks used in City tows will be subject to a yearly inspection. This does not preclude the City from conducting random inspections throughout the year.

16. Vehicle Identification

Tow vehicles shall display identification signs in compliance with Section 27907 of the CVC. The Tow Operator shall not display any sign or advertising material that indicates that his tow vehicles are an official police service of the City.

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17. Charges and Fees to be collected from Registered Owners

All rates and charges shall be conspicuously posted in the office and in all tow vehicles. These rates shall quote complete charges and fees with no additional fees to be added at a later date. These rates will be available for review by City personnel and/or the person for whom tow service is provided. All fees collected shall be itemized and invoiced in DTS in accordance to Section 22651.07 of the CVC. It will be the Tow Operator's responsibility to collect his bill for service, and the City will not be responsible in any way for these charges. Storage fees will be calculated on the calendar day except the first 24-hours which is counted as a single day in accordance with California Civil Code 3068.1. (Refer to Attachment B). All fees listed on the DTS invoice will be received in the form of major credit card, debit card, or cash. All fees collected, both City and Tow Operator fees, must be invoiced through the DTS system prior to release and at the time of payment. No credit card fees will be charged pursuant to CVC 22651.1 and CCC 1748.1 for any portion of the fees. The City reserves the right to change all payment methods during the term of this agreement.

18. Lien Fees

At no time shall the City be charged a lien fee on a towed or impounded vehicle. No lien shall be attached to any vehicle that has been impounded by the City until after 72 hours from the time of storage as listed in the DTS system have passed pursuant to Section 22851.12 of the CVC. Vehicles sold at lien sale shall abide by all laws relating to lien sales. A vehicle held in impound by the City for thirty (30) days, shall not be sold at lien until such time as is considered reasonable to allow the registered owner time to pay for and pick up the vehicle before it is sold at lien, but under no circumstances before the 35th (thirty-fifth) day after storage.

The Tow Operator shall abide by all applicable statutes and ordinances concerning disposal of unclaimed vehicles, including but not necessarily limited to California Vehicle Codes 22670; 22851; 22851.1; 22851.2; 22851.3; 22851.4; 22851.6; 22851.8; 22851.10, 22851.12 or 22852.5.

As described in section 22856 of the California Vehicle Code, liability for despoliation of evidence shall not arise against the Tow Operator that sells any vehicle at, or disposes of any vehicle after, a lien sale, as long as the Tow Operator can show written proof that he was notified in writing by the City that the vehicle would not be needed as evidence in a legal action. This proof may exist in the form of an official release in the DTS System or any other written conveyance signed by a member of the City prior to the official, written release of the vehicle.

19. Reasonableness and Validity of Fees

Fees charged to the registered owner or any other person for response to calls originating from the City shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person. During the term of this agreement, the City shall conduct an annual review in July of towing and storage fees of comparable cities and adjust rates as listed in Attachment B.

20. Towing Operation

All tows performed under this Agreement will be included in the flat rate charge as described in Attachment B. No additional charges shall be charged without prior approval from the City and written notice is provided in the DTS System. Any unapproved charges received outside the DTS System will result in immediate termination from this Agreement and removal from the rotation list.

The Tow Operator shall base towing charges upon the class of vehicle being towed regardless of the class of the truck used, except when vehicle recovery operations require a larger class truck. The Tow Operator may refer to the tow truck classes and weight ratings as defined by the Towing & Recovery Association of America (TRAA) vehicle identification guide.

21. Service Call Rotation and Fees

The City shall establish a separate rotation list for Tow Operators willing to respond to service requests (out of gas, lockouts, tire changes, etc.) Rates for a service requests shall not exceed one-half the flat rate charge for a light duty truck response.

22. Gate Fees

No gate fees may be charged between 8:00 a.m. through 5:00 p.m. Monday through Friday, excluding City recognized holidays as listed in the Agreement.

On Saturday and Sunday, between the hours of 8 a.m. and 12 p.m. a \$75.00 gate fee may be applied to the invoice in the DTS system. Any other after hours gate fee may be charged at all other times. The gate fee is not to exceed 50% of the flat rate charge for a light duty tow and may be charged to the vehicle's owner for releases or personal property recovery that occurs outside normal business hours (excluding lien fees, storage fees, taxes, or other additional fees.) The Tow Operator is responsible for assuring that proper gate fees are charged in accordance with this section. Over charging gate fees will be considered a major violation as outlined in Section 30.

All towing and storage fees charged by the Tow Operator are the responsibility of the vehicle's owner and are not the responsibility of the City. The exception would be evidentiary impounds made at the direction of City personnel.

23. Cancelled Tow

The City shall not be liable to pay the Tow Operator or anyone else any charge or other fee for a call that does not result in a chargeable service being rendered by Tow Operator ("Dry Run"). The cancelled Tow Operator shall be placed back on the top of the rotation list and will receive the next tow in rotation.

24. Towed in Error

In the event the City determines that an error has occurred in impounding a vehicle, it shall be immediately released to the registered owner without charge and the Tow Operator will be placed back on the top of the rotation list and will receive the next tow in rotation. In addition, the Tow Operator will be given two extra tows on the rotation list.

25. Release Fees

California law authorizes the recovery of funds required to enforce certain California Vehicle Codes and promote traffic safety on public roadways. This authorization falls under California Vehicle Code 22850.5 and further authorized by City resolutions. These resolutions are open to public view at the City and/or City offices and are on file with the City's Traffic Bureau. The Tow Operator will collect fees on the behalf of the City from the registered owner, legal owner or agent of an impounded car.

A City administrative / franchise fee will be charged for the release of a vehicle that has been impounded by the City. Fees will be established by an independent consulting firm to determine the City's costs associated with impounding vehicles in accordance with CVC section 22850.5 and 12110(b). All vehicles impounded will be charged an administrative / franchise fee for the release of the vehicle. This fee will be established and attached to each vehicle in the DTS System. The City's administrative fees will be collected at the time of the release by the Tow Operator. The Tow Operator will pay the City's franchise fees equivalent to the City's administrative fees for every vehicle that is not picked up by the owner or agent. The Tow Operator will pay the City's administrative / franchise fees for every City vehicle that was towed during the preceding month and will pay the City no later than the 15th of the following month, regardless of the disposition of the vehicle. Tow Operators who fail to submit the City's administrative / franchise fees to the City by the 15th day of each month will be immediately suspended from rotation until fees are received, and will be subject to appropriate disciplinary action and civil recourse. The City will keep a strict accounting of these fees through the DTS System and frequent audits will take place to ensure accurate and timely payment of collected City administrative / franchise fees. The fee will be listed as an item on the owner's / agent's bill as "City Administrative Release Fee".

26. Unauthorized Release

Unauthorized release of an impounded vehicle, accidental or otherwise, having evidentiary value, not officially released by the City, and determined to be the fault of the Tow Operator, will result in the issuance of a major violation as set forth in this Agreement. The determination of such fault will be the responsibility of the City.

27. Release of Multi-Day Impounds

A vehicle impounded with a multiple day hold may only be released prior to the impound period with written authorization by the City in the DTS System. The DTS System will automatically schedule the release of an impounded vehicle.

28. Release of Vehicles

Vehicles may only be released through the DTS System. Once the DTS System authorizes the release of a stored or impounded vehicle, it is the Tow Operators responsibility for the vehicle's release. The Tow Operator is hereby granted authority to release to the registered owner, legal owner, or authorized representative, pursuant to section 22850.3 of the California Vehicle Code. At the time of release, the Tow Operator shall have the registered owner, legal owner, or authorized representative, taking possession of the vehicle, sign a release indicating that they are properly licensed and insured to drive a motor vehicle.

29. Disciplinary Action

The Chief of Police, or his/her designee, shall take disciplinary action against Tow Operators for violations investigated and sustained. Unless otherwise noted, the Chief of Police, or his/her designee, will determine the period of suspension and shall retain discretion regarding the length of any suspension imposed pursuant to the terms and conditions of this Agreement. The City shall retain record of violations for at least the term of this Agreement.

30. Major violations

Major violations include any chargeable offense under Federal, State, Local Law and significant violations of this Agreement will result in suspension or immediate termination from this Agreement. The Chief of Police or their designee reserves the right to impose longer periods of suspensions or immediate termination, if deemed appropriate in his/her sole discretion. The Chief of Police, or his/her designee, reserves the right to remove a Tow Operator from the tow rotation during the investigation of a major violation. A reinstatement from suspension for a major violation will result in a \$500.00 fee. Suspension will not be lifted until the reinstatement fee is received by the Chief of Police or his/her designee. In addition, a major violation may also result in the Tow Operator's employee being removed from participation in this Agreement.

Examples of major violations include, but are not limited to:

- Physical assault, against public and/or law enforcement
- Verbal abuse, against public and/or law enforcement
- Resisting arrest
- Tow Truck Driver under the influence of alcohol or illegal drugs
- Charging rates that exceed those listed in Attachment B
- Vehicle released without authorization
- Unauthorized access to storage yard
- Theft
- Mishandling of vehicles stored as evidence
- Unauthorized driver responding to call
- Failure to provide information or change of status on any Tow Operator employee or staff
- Substantiated private party impound complaints
- Any Felony/Misdemeanor arrest
- Refusal to take a rotational tow
- Failure to utilize the DTS System for all City towing related matters
- Repeated late or nonpayment of City franchise fees
- Failure to properly secure storage yard
- Failure to obey an lawful order by a police officer

31. Minor violations

Minor violations will be given to the Tow Operator in the form of a documented warning for the first violation. The second violation will be in the form of a documented reprimanded and a \$100.00 fine. The third minor violation(s) within a 12-month period will be treated as a major violation, and the Tow Operator will be suspended or terminated from this Agreement. A reinstatement from suspension will result in a \$500.00 fee. Suspension will not be lifted until the reinstatement fee is received by the Chief of Police or his/her designee. Examples of minor violations include, but are not limited to:

- Late payment of City franchise fees
- Tow truck drivers not wearing City issued I.D. cards/ proper uniform
- Unauthorized arrival time in excess of 30 minutes or 45 minutes during peak hours
- Pull Notice not completed
- Repeated rejection of dispatched calls
- Dropping vehicles in other than Tow Operators' approved tow yard
- Other violations of this Agreement not considered a major violation by the Chief of Police

32. Hearing/Appeal

Tow Operator must have a legal existing interest in the tow operation or entitlement subject to the City order, citation, decision or determination to have standing to appeal. An appeal that fails to identify the appellant's standing may be rejected as defective.

In the event FPD serves Tow Operator with disciplinary action, Tow Operator may request a hearing within 15 calendar days by submitting an appeal in writing to the Administrative Hearing Officer by way of the City Manager's Office. The written appeal shall be in compliance with FMC sections 1-407 and 9-1712.

Notwithstanding any provision within Chapter 1, Article 4 of the FMC, any person who appeals from a denial of placement, permanent removal, suspension or temporary removal from the Tow Rotation List shall not be entitled to placement on the Tow Rotation List or to participate in tows until such time as any appeal hearing has been concluded and the Administrative Hearing Officer finds that no grounds for denial of placement, permanent removal, suspension or temporary removal has been established. Tow Operator's remedy shall be limited to reinstatement, or re-consideration by City for placement in the case of an appeal from a denial of placement, on the Tow Rotation List.

ATTACHMENT B
TOW FEES

Flat price per vehicle per call:

Light Duty Tow/Flatbed	\$180.00/Each
Medium Duty Tow	\$ CHP Rates Apply
Heavy Duty Tow	\$ CHP Rates Apply

Water Recovery: \$ CHP Rates Apply

Technology Fee:

DTS Software Fee per Vehicle Towed \$ Charge listed in DTS Contract and DTS System

Storage Rates:

Passenger cars	\$40.00 /per day
Motorcycles	\$40.00/per day
Trucks or Trailers	\$ CHP Rates Apply

Inside Storage Rates:

Passenger cars	\$50.00 /per day
Motorcycles	\$50.00/per day
Trucks or Trailers	\$ CHP Rates Apply

Gate Fee: No gate fees may be charged between 8:00 a.m. through 5:00 p.m. Monday through Friday, excluding City recognized holidays as listed in the Agreement.

On Saturday and Sunday, between the hours of 8 a.m. and 12 p.m. a \$75.00 gate fee may be applied to the invoice in the DTS system. Any other after hours gate fee may be charged at all other times. The gate fee is not to exceed 50% of the flat rate charge for a light duty tow and may be charged to the vehicle's owner for releases or personal property recovery that occurs outside normal business hours (excluding lien fees, storage fees, taxes, or other additional fees.)

Gate fees for medium and heavy duty tows will be set at ½ the CHP hourly rate for medium and heavy duty tows.

Non-tow service calls (out of gas, lockouts, and flat tires) shall not exceed one-half the flat rate charge for a light duty truck response.

City of Fresno Administrative / Franchise Fees:

Vehicle Collision Blocking a Roadway	\$ 60.00
Illegally Parked / Abandoned Vehicle	\$116.00
Unlicensed Driver / Expired Registration	\$189.00
Arrested / Suspended Driver	\$266.00
DUI Driver	\$450.00

All fees listed on the DTS invoice will be received in the form of major credit card, debit card or cash. No credit card fee will be charged pursuant to CVC 22651.1 and CCC 1748.1.

City of Fresno, California



VEHICLE IMPOUND COST OF SERVICE AND FEE STUDY



September, 2011

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September 19, 2011

Captain Andrew Hall
City of Fresno Police Department
2323 Mariposa Mall
Fresno, California 93721

Subject: Vehicle Impound Cost of Service and Fee Study

Dear Captain Hall:

The following is our final report concerning our Vehicle Impound Cost of Service and Fee Study. We want to thank you and your staff for all their assistance in helping us gather data and answer our questions concerning the vehicle impound process and activities. We have identified the cost of service and cost recovery for five different tow and impound categories. If you have any questions, please feel free to contact me at (425) 867-1802 extension 228.

Sincerely,

A handwritten signature in black ink that reads "Peter Moy". The signature is fluid and cursive, with the first name "Peter" and last name "Moy" clearly distinguishable.

Peter Moy
Principal

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CHAPTER 1: INTRODUCTION

As part of the Fresno Police Department's (FPD) efforts to change the administrative, operational, and payment processes involving the City's contracted towing companies, the FPD needed to update its vehicle impound fees. The FPD engaged FCS GROUP to conduct a cost of service and fee analysis for its impound activities. This cost of service and fee study identifies the FPD's labor and non-labor resources, establishes the full cost of service for the impound related activities, determines the City's cost recovery rate, and provides a framework for FPD to set its cost recovery policies and fee recommendations regarding vehicle impounds.

The approach used to conduct the study involved the following:

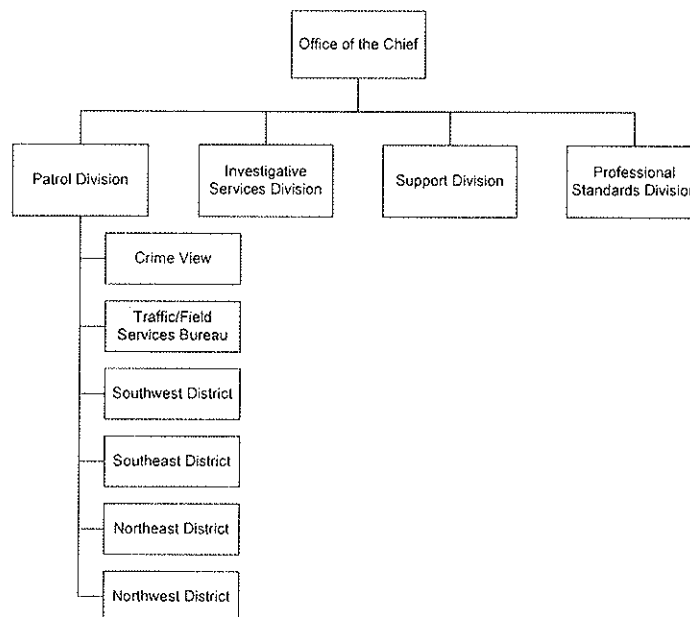
- ❖ Meeting with the FPD's Traffic/Field Services Bureau's management and officers who are involved with the administration of the towing companies contracts,
- ❖ Identifying the activities and steps involved in towing and impounding vehicles,
- ❖ Observing an actual vehicle tow and impound incident,
- ❖ Identifying the FPD staff positions that perform the activities and meeting with the staff performing the activities to obtain time estimates on how long it takes to perform an activity,
- ❖ Collecting and analyzing FY2011 actual revenue, expenditure, position, and workload data, and
- ❖ Preparing a draft and final report.

The process used for collecting and analyzing the data required active participation by FPD staff. We want to take the opportunity to recognize the time, participation, and effort that all City staff especially Captain Andrew Hall, Sergeant Richard Tucker, Officer Dalan Richards, and Cynthia Hanks devoted to the study and to scheduling and organizing the meetings.

The Traffic/Field Services Bureau

The primary responsibility for enforcing the traffic laws and towing and impounding vehicles, where appropriate, belongs to the Traffic/Field Services Bureau. The Bureau is part of the Patrol Division, which is the largest division and one of four divisions in the Fresno Police Department. The Investigative Services Division is the other major division, and the other divisions primarily provide administrative and other support to Patrol and Investigative Services. Exhibit 1 shows the organization of the Department and the Patrol Division.

Exhibit 1
Fresno Police Department Organization Chart

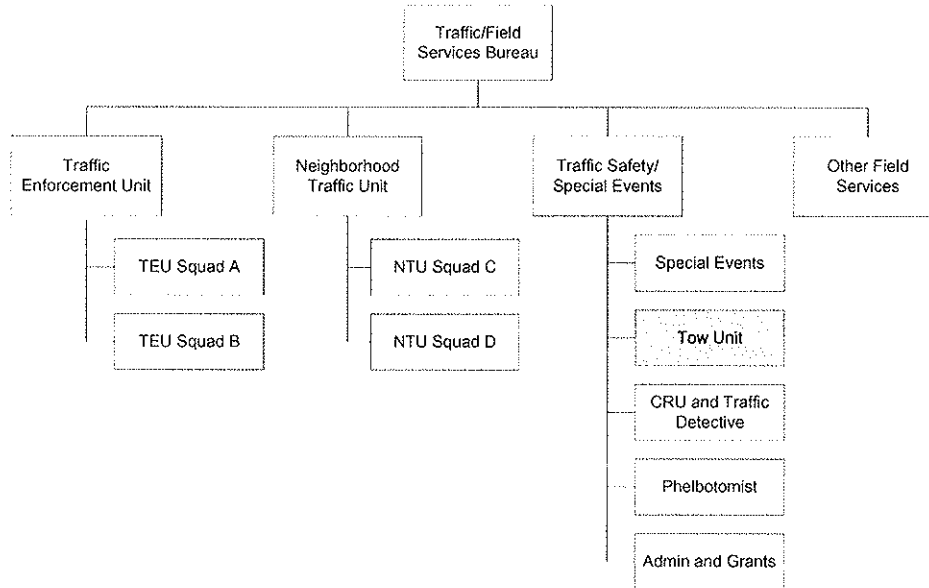


As part of the Patrol Division, the Traffic/Field Services Bureau is the primary unit responsible for traffic safety. The mission of the Fresno Police Department Traffic Safety Section is to provide a professional and effective team of individuals, dedicated to traffic safety, with the ability to provide a timely response to crime and traffic problems in order to assist all members of the community and generate voluntary compliance to traffic laws and regulations. The goals of the Traffic Safety Section are the following:

- ❖ Reduce the number of fatal, injury and non injury collisions in the City of Fresno.
- ❖ Increase the number of educational efforts in all segments of our community to prevent collisions before they occur.
- ❖ Increase enforcement efforts related to occupant protection, speeding and driving under the influence.

To achieve the above goals and to enforce traffic laws, the Bureau's police officers tow and impound vehicles in a variety of circumstances. To manage the vehicle towing and impounds, the Traffic Safety Section includes a Tow Unit. The primary function of the Tow Unit is to oversee the process of impound, storage, and release of all vehicles towed by the FPD and to ensure the proper enforcement activities of department members and the fair treatment of citizens by tow companies on the department's rotation list. The FPD Tow Unit currently has a staff of one civilian employee and one sworn officer. Exhibit 2 shows the how the Section is organized and where the Tow Unit is organizationally.

Exhibit 2
Traffic/Field Services Bureau Organization



The Tow Unit is responsible for the following:

- ❖ Responding to messages left on the Tow Unit message line. Tow Unit staff will address each citizen's and/or tow companies concern/issue using the California Vehicle Code, the California Civil Code, the Fresno Municipal Code, Tow Service Agreement and the FPD Blue Book as references. Some cases may warrant additional research. Tow Unit staff may contact other City personnel and/or outside agencies (example: DMV, FSO, CHP) or businesses to gather as much information as possible. The Tow Coordinator may also travel to a tow yard to examine an impounded vehicle. Each call is logged with the date and time of the call, the caller, contact phone number and pertinent notes.
- ❖ Conducting tow hearings. Per California Vehicle Code section 22855, a vehicle owner may request an informal hearing to determine the legality of the stored vehicle. One of the Tow Unit staff members will act as the Hearing Officer with assistance from the Special Events Supervisor as necessary. Tow Unit staff assembles case documentation prior to the hearing and a summarization after the hearing.
- ❖ Compiling statistical information: a daily count of impound/store information, separated by violation; City fees waived by FPD personnel; penalties accrued by tow companies. Maintaining running count of evidence tows.
- ❖ Contacting officers, investigators, Records, tow companies, and public counter personnel regarding inventory errors and/or corrections. Advising investigators of evidence holds placed on vehicles. Advising Records/Public Counter personnel of Special Instructions allowing for fee changes and/or early releases.
- ❖ Maintaining rotational tow company information (hard copy and computerized). Information in files includes documents pertaining to insurance, permits, employee applications, equipment, and any correspondence. If a tow operator fails to provide current documentation to the Tow Unit,

Tow Unit staff will consult with the Special Events Sergeant to determine if suspension of that company is recommended until it complies with its contractual obligations.

- ✧ Processing tow company employee applications through CLETS and RMS, and requesting CHP run a background check. The applicant and tow company will be notified of denial or acceptance by the Tow Unit. A denied applicant may request a hearing through the City hearing officer.
- ✧ Inspecting tow companies to ensure compliance with the Tow Agreement. This includes conducting on-site inspections of tow yards and tow equipment, and auditing company invoices.
- ✧ Verifying correct entry of each checkpoint tow into RPW to ensure correct billing of tow companies by FPD. Scheduling and contacting tow companies for checkpoints. Performing tow truck inspections.
- ✧ Tracking fee adjustments that occur as a result of a review of an individual case or at the request of FPD personnel. This may also include tracking make-up tows given to tow companies.
- ✧ Serving as a resource for FPD personnel, tow companies and citizens regarding FPD tow policies, Vehicle/Civil Code regulations and frequently researching the location or impound status of a vehicle.
- ✧ Completing DMV form 462 (junk slips) for tow companies upon request.

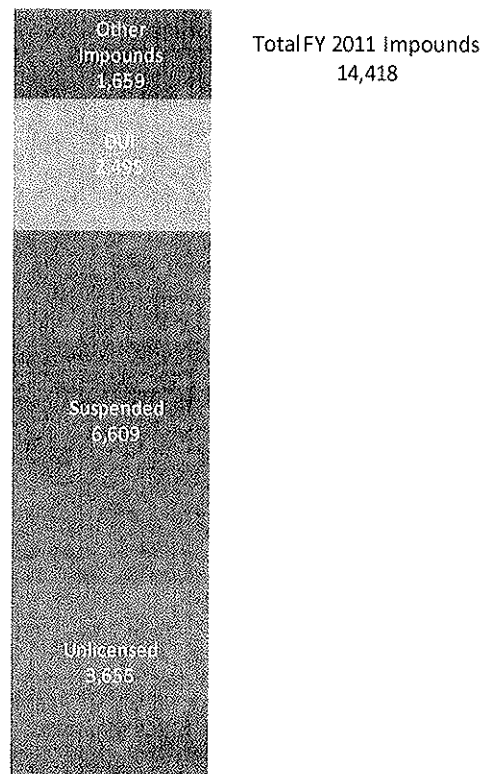
Vehicle Impounds

Based on discussions with Bureau staff, there are five major categories when vehicles are towed and impounded by the FPD.

- ✧ When a properly licensed driver and vehicle are involved in an accident and are blocking a roadway, the FPD has allowed the driver to call a tow company to have their car removed from the accident site. According to the Bureau, to avoid waiting for a tow truck that the driver has called and to clear the roadway as soon as possible, the FPD will now call one of the City's contracted tow companies to help clear the vehicles from the roadway.
- ✧ A vehicle is illegally parked or abandoned and the FPD must tow and impound the vehicle,
- ✧ A vehicle is stopped and the driver does not have a valid driver's license, is unlicensed, or is using a vehicle with a registration that has expired six months or longer,
- ✧ A vehicle is stopped, and the driver is arrested or has a license that has been suspended, or
- ✧ A vehicle is stopped and the driver is suspected of driving under the influence (DUI) of either alcohol or drugs.

In FY2011, FPD impounded 14,418 vehicles. About 46% of the impounded vehicles were related to drivers with suspended licenses; 25% were related to unlicensed drivers, and 17% were related to DUI drivers. Exhibit 3 shows the number of vehicle impounds by type of impound.

Exhibit 3
FY 2011 Vehicle Impounds



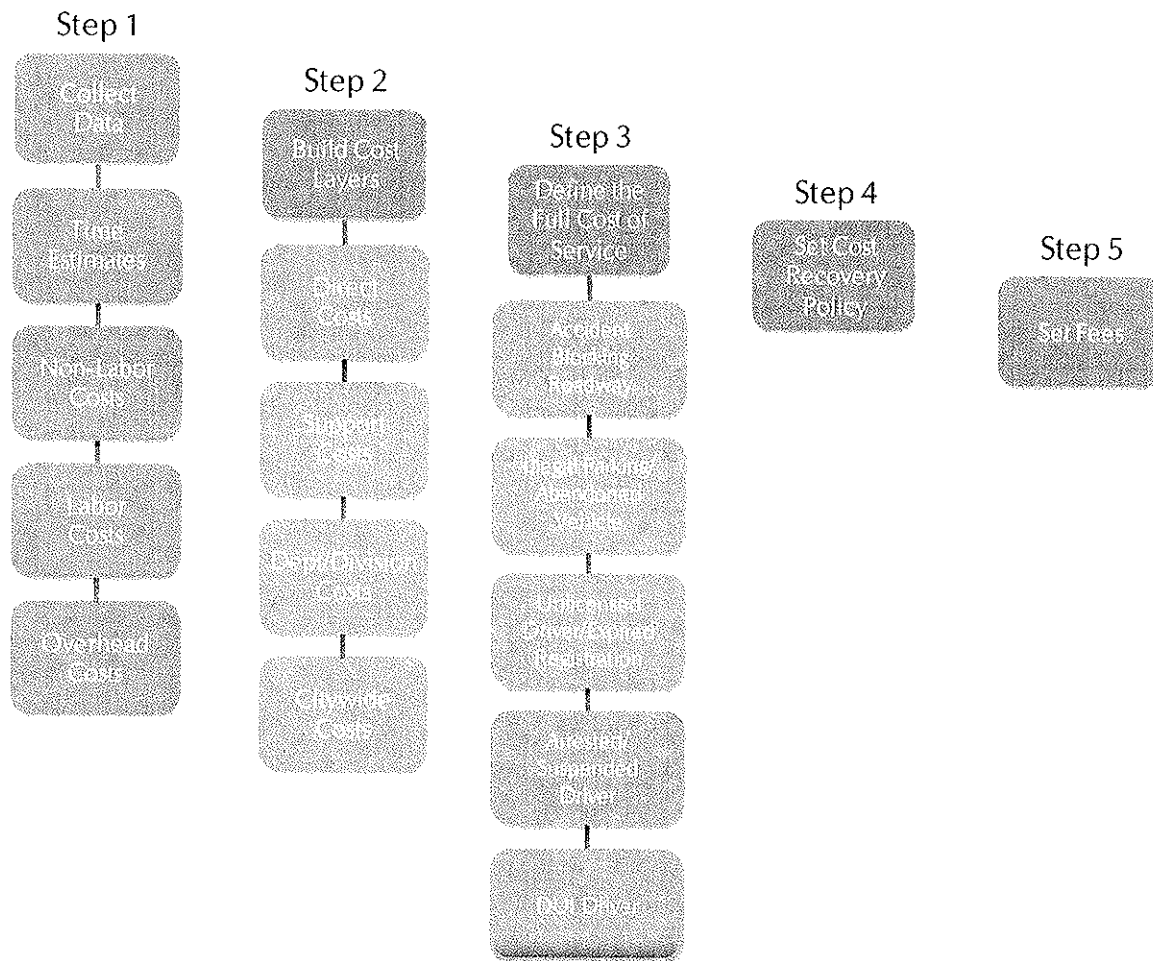
To help offset the FPD's cost of administering and processing the vehicle tows and impounds, the City charges a fee for each vehicle impounded. The current impound fee is \$184, and if the driver is a chronic offender, an additional \$110 is added to the fee for a total fee of \$294. In FY 2011, the net revenue from these fees after bad debts was \$3,053,957. The current fees were established in March 2003.

The following chapters explain the cost of service methodology and cost recovery analysis used to determine the current cost of service and the level of cost recovery for vehicle impounds.

CHAPTER 2: COST OF SERVICE METHODOLOGY

To determine the cost of service and the fees for towing or impounding a vehicle, the cost of service analysis followed a defined methodology as outlined below in Exhibit 4. The methodology identifies the amount of time spent to perform the services and activities, both the labor and non-labor resources that are required, and the type of costs that are involved. Once the full cost of service is established, the level of cost recovery for each service is then determined. The analysis provides City and FPD management the opportunity to evaluate the FPD's cost recovery for its impound services and activities and to determine the level of cost recovery that FPD should be recovering based on FPD cost recovery policies.

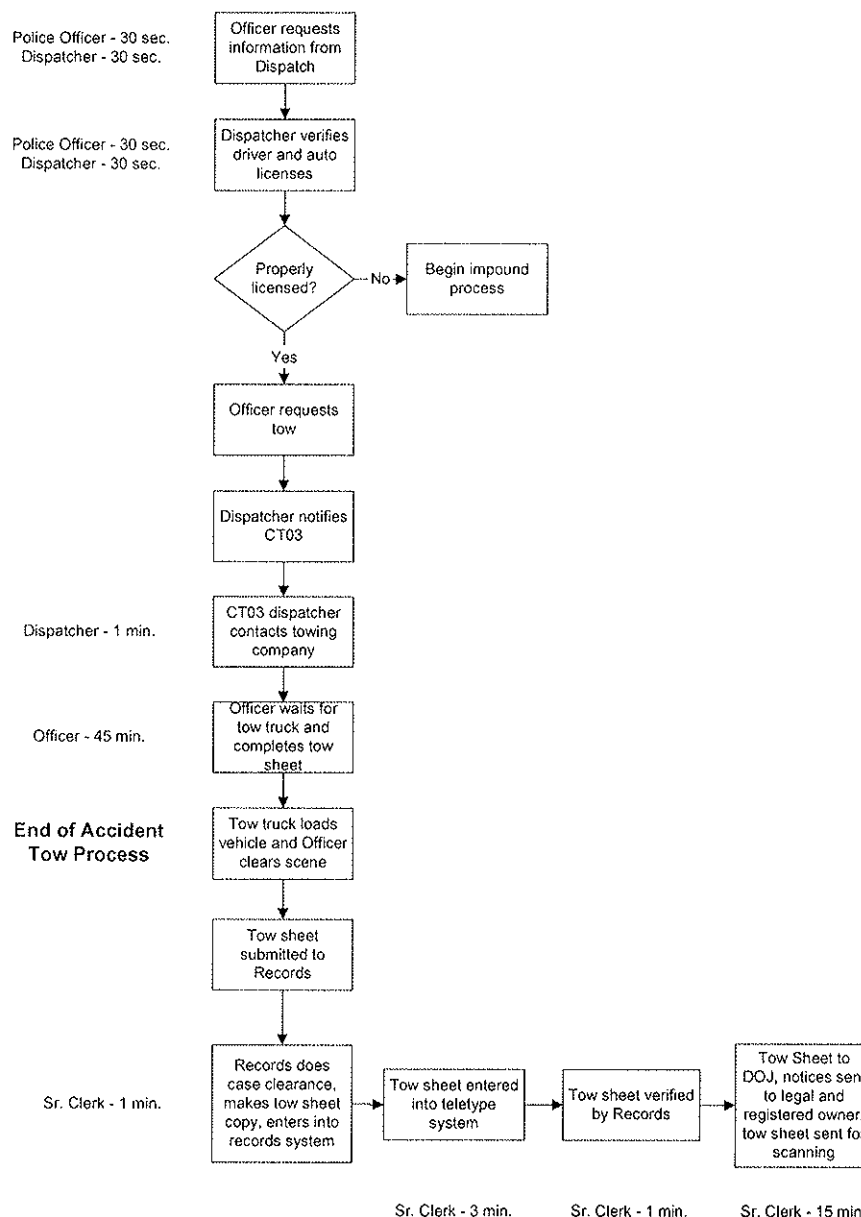
Exhibit 4
Cost of Service and Fee Methodology



Step 1: Collect Data – The data collection phase is the critical step that establishes the parameters of the cost of service and fee analysis. As part of the data collection process, we met with FPD's Traffic management and staff to identify the activities and the time needed for the five impound categories. In addition, we also met with staff from Records and Communications to discuss the time that their staff also spent on a tow and impound. Exhibits 5 and 6 show the overall process and the amount of

time each position spends on impounding a vehicle. Exhibit 5 shows the process for a legally licensed driver involved in an accident that blocks a roadway and because the car is not impounded, there is little additional paperwork that must be done for this type of tow. The additional process shown in Exhibit 5 is for an illegally parked or abandoned vehicle that does get impounded.

Exhibit 5 Process for a Vehicle Accident Blocking a Roadway and Illegal Parking/Abandoned Vehicle

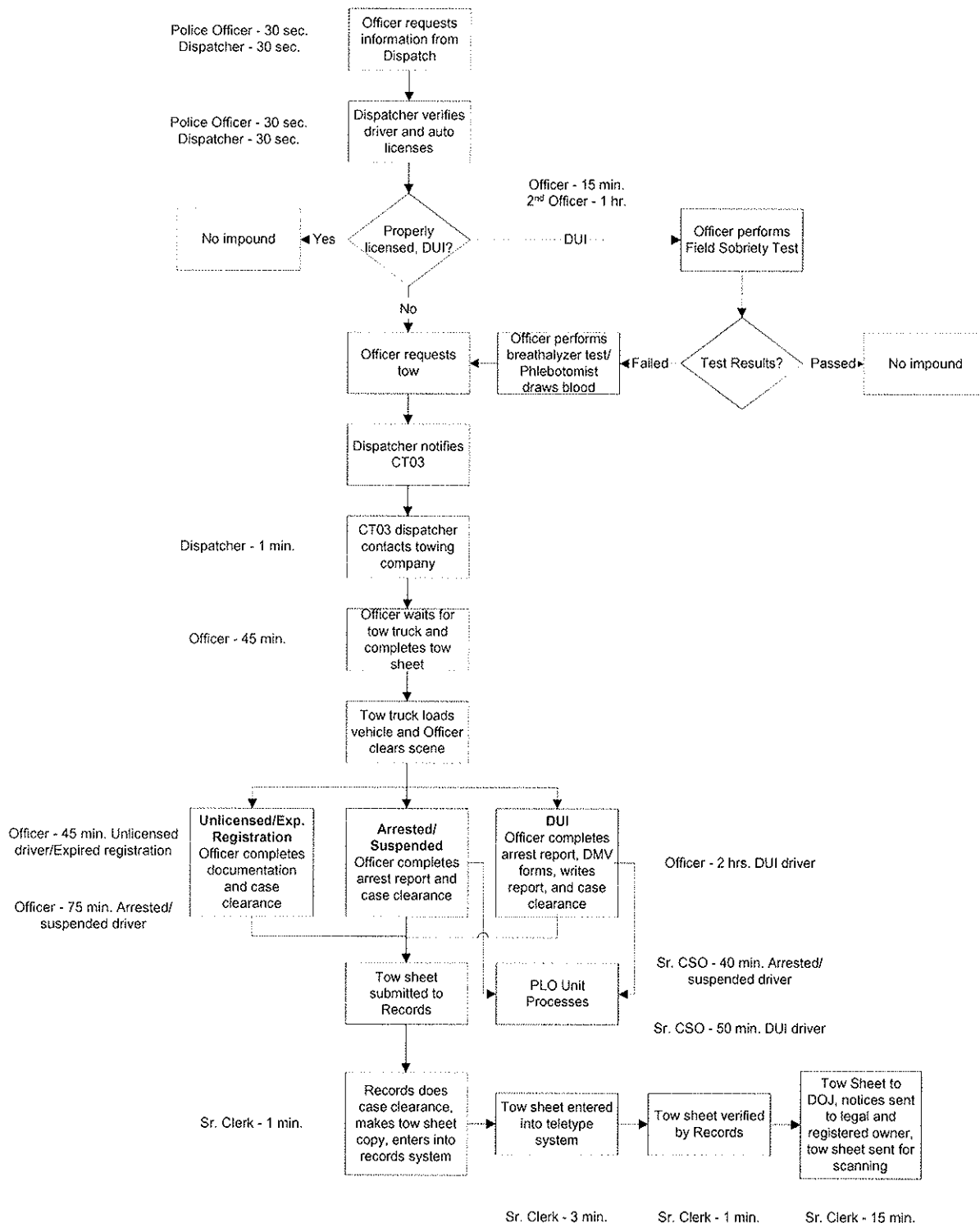


Compared to a tow involving a vehicle in an accident, tows and impounds related to violations of licensing and traffic laws have many additional steps and activities. As a result, these impounds take longer because the tow documentation must be processed by Records, and officers usually require more time to complete the documentation and reports. Exhibit 6 shows the process for towing and

impounding vehicles that have been stopped by a police officer. For an unlicensed or an arrested/suspended driver, the primary difference (30 minutes) is the additional time needed to complete the case clearance and arrest reports for an arrested/suspended driver.

For a tow and impound involving a DUI, not only is there additional documentation and reports, but a police officer must administer a field sobriety test. In addition, another police officer is needed for an hour to assist the primary police officer. Exhibit 6 shows the overall process and times as well as any separate activities required for each type of impound.

Exhibit 6
Process for a Traffic Stop Involving Unlicensed, Expired Registration,
Arrested, Suspended, or DUI Drivers



With the activities and time estimates identified, the data collection effort focused on collecting cost and other data. The cost and other data included the following:

- ❖ The FY2012 salary and benefits for each position involved in the process,
- ❖ The amount of leave and time off taken by the FPD personnel within each organizational unit,
- ❖ FY2011 actual labor and non-labor costs for the FPD and its various units,
- ❖ FY2011 filled and vacant positions for the FPD and its various units,
- ❖ The capital and operating costs for the electronic ticket writers and supplies,
- ❖ The capital and operating costs for a motorcycle, and
- ❖ The number of total traffic citations issued for FY2011.

Step 2: Build Cost Layers – The next stage in the process was to develop an analytical model for calculating the costs related to each tow and impound category. The design and structure for analyzing the cost of service is based on the labor and non-labor costs associated with the services and activities identified by the FPD staff. The key cost layers include the following:

- ❖ Direct labor costs,
- ❖ Direct non-labor costs,
- ❖ Departmental, divisional, and section overhead costs,
- ❖ Tow Unit costs, and
- ❖ Electronic ticket writer and motorcycle costs.

To build the cost layers, the first step was to determine each position's salary and benefits costs. The FY2012 annual salary and benefits were calculated for each position, and the average leave and time off per person for each unit (e.g. Traffic, Records, Communications, and Prosecutor Liaison Office) was calculated using the FY2011 leave and time off data provided by FPD.

After determining the salary and benefits costs for each position, the FY2011 non-labor support costs per position were calculated. Based on the FY2011 actual expenditures, the average non-labor support costs per position for the Traffic Enforcement and Neighborhood Traffic units were calculated as well as the average non-labor costs per position for Records and Communications. As part of the non-labor support costs for a police officer, the annual operating and amortized cost for a motorcycle was also included.

To also include the FY2011 Department, division, and bureau overhead costs, Department and Citywide overhead costs were also identified and allocated to all the Department's units based on the number of filled positions at the end of FY2011. The Department's overhead units included the following units:

- | | |
|-------------------------|---------------------------|
| ❖ Office of the Chief | ❖ Training |
| ❖ Public Information | ❖ Administrative Services |
| ❖ Personnel | ❖ Information Services |
| ❖ Fiscal Affairs | ❖ Employee Services |
| ❖ Property & Evidence | ❖ Internal Affairs |
| ❖ Planning and Research | |

The Patrol Division's overhead costs were also allocated based on the number of filled positions in each of Patrol's units. The final allocation of overhead costs included the overhead costs for the

Traffic/Field Services Bureau. The Department's, the Division's, and Bureau's overhead costs were calculated as a cost per position. For Records and Communications, a similar process was followed to calculate the overhead costs per Records and Communications position. These overhead costs generally consisted of the supervisor or manager of the unit and the section's share of Department overhead. Overhead costs were not calculated for the Prosecutor's Liaison Office.

The cost of the Tow Unit was also calculated based on the salaries and benefits of the two staff members and the Unit's share of the various non-labor support costs and the different overhead costs. Based on the total cost of the Tow Unit, a cost per impound was calculated based on the number of FY2011 impounds.

The final cost includes the annual operating and amortized cost of a handheld electronic ticket writer. The cost of the handheld ticket writer was calculated as a cost per citation.

Step 3: Determine the Full Cost of Service – To calculate the full cost of service. The initial steps of the cost of service analyses were focused on identifying the costs associated with each position involved with the five tow and impound categories. These costs included a position's salary and benefits, non-labor support costs, motorcycle costs, Department, division, and bureau overhead, the cost of the Tow Unit, and the cost of using the electronic ticket writer. To determine the full cost of service, the costs are brought back together as a fully loaded hourly rate and a cost per impound. The cost for a specific tow and impound category equals the amount of time spent on an impound by each position multiplied by each position's fully loaded hourly rate.

The fully loaded hourly rate for one staff member equals the person's annual salary and benefits plus the other support and overhead costs divided by the available work hours (e.g. total annual hours minus leave and time off hours). An assumption of 2,080 total annual hours was used for the annual paid hours, and the actual available work time was calculated by deducting any leave hours, other time off, and administrative time. For example, if the position's salary and benefits plus the various other costs totaled \$90,000 and the average time off and administrative time was 280 hours, the available productive work hours are 1,800, and the hourly rate would be \$50 per hour (i.e. \$90,000 divided by 1,800).

Step 4: Set Cost Recovery Objectives – Once the full cost of service is identified for the five tow and impound categories, the next step is to establish cost recovery objectives. The cost of the five categories was compared to the current fees to determine the level of cost recovery (e.g. the difference between the full costs compared to revenue generated). For example, when services cost more than the revenue generated, the General Fund must support the services and activities to cover the gap between costs and revenues.

Cost recovery objectives are policy decisions that can be based on a variety of qualitative factors. If an activity has a public benefit, it might be more appropriately supported by taxes. Conversely, if an activity has mostly private benefits or is enforcement related, it might be more appropriately supported by fees. Activities that have a mix of public and private benefits might be supported by a combination of fees and taxes.

Setting cost recovery objectives will be completed by the FPD and the Traffic/Field Services Bureau and will not be addressed in this report.

Step 5: Design Fees – The final step of the cost of service and fee analysis is to add to or revise the FPD's current vehicle impound fees. Once the cost recovery levels are established, the FPD has a number of different options for designing fees that will meet the cost recovery targets. The FPD could simply increase existing fees or use an alternative fee structure that is based on the type of impound. Other considerations in fee-setting besides the cost recovery objectives include key questions such as:

- ❖ Is it feasible to set fees to the target cost recovery level?
- ❖ Will changing fees result in compliance or public safety problems?
- ❖ Can the market bear the fee increases?
- ❖ Do adjustments in fees adversely affect other City goals?
- ❖ Are there feasible process changes that might bring costs into better balance with revenues?

This step will also be completed by the FPD and the Traffic/Field Services Bureau and will not be addressed in this report.

CHAPTER 3: COST OF SERVICE ANALYSIS

Based on the methodology described in the prior chapter, the full cost of service for the five tow and impound categories was calculated. The cost of service analysis identified the costs by type of cost category as well as the total cost. The cost of service is primarily based on the amount of time spent by each FPD staff position that is involved with an incident requiring a vehicle tow and impound. Exhibits 5 and 6 in the previous chapter show the activities and time involved for the various impound categories. The following sections describe the time involved, the cost assumptions, and the cost of service calculations.

Time Estimates

Working with the Traffic, Communications, and Records management and staff, the time involved with each type of impound category was identified for each step in the process as shown in Exhibits 5 and 6. Exhibit 7 shows the total time by position for each impound category.

Exhibit 7
Time Spent by Position on Activities for the Five Impound Categories

Position	Time in Minutes				
	Accident Blocking Roadway	Illegal Parking/ Abandoned Vehicle	Unlicensed Driver/Expired Registration	Arrested/ Suspended Driver	DUI Driver
Police Officer(s)	46	46	91	121	241
Dispatcher	2	2	2	2	2
Sr. Records Clerk	-	20	20	20	20
Sr. Community Service Manager	-	-	-	40	50
Phlebotomist	-	-	-	-	5

Cost Assumptions and Calculations

To determine the full cost of service as described in the previous chapter, we identified the following costs:

- ❖ The salary and benefits cost of each positions involved in the process,
- ❖ The Bureau/Section non-labor support costs associated with each position,
- ❖ The Department-wide overhead costs per position,
- ❖ The Bureau/Section administrative and supervisory costs per position, and
- ❖ Tow Unit and electronic ticket writer costs.

Salary and Benefits Costs

FPD provided the FY2012 salaries and benefits for each position involved directly with the tow and impound process. In addition, the salary and benefits were also provided for the various management and supervisory staff for the Traffic/Field Services Bureau, the Records Section, and the Communications Section. The salaries and benefits were based on the following and Exhibit 8 shows the costs for each position:

- ❖ All the salary and benefits costs are generally based on the top step (e.g. F step or E step),

- ♦ For the police officer position, the salary and benefits were based on a motorcycle officer. According to Traffic's management, almost all impounds involve a motorcycle traffic officer. An additional \$3,427 per year is added to the salary for motor hazard pay compared to other FPD police officers.
- ♦ The Dispatcher salary and benefits cost is a weighted average of all the different Dispatcher classifications (e.g. ESD Supervisor, ESD III, ESD II, ESD I) based on the percentage of filled positions in each category.

Exhibit 8
Salary and Benefits Costs by Position

Position	Salary & Benefits
Traffic Police Officer	\$125,475
Dispatcher	\$74,030
Sr. Records Clerk	\$58,633
Community Services Manager	\$67,616
Phlebotomist	\$59,213

Non-Labor Support Costs

In addition to the salary and benefits costs for each position, each position is also supported by non-labor costs in the section or unit, and examples of these costs include training, supplies, copiers, and postage. Based on the FY2011 actual expenditures for the specific unit, Exhibit 9 shows the support cost per position. The costs for the traffic police officer were based on the average for the Traffic Enforcement and Neighborhood Traffic sections' costs. The support costs for the Phlebotomist and the Senior Community Service Officer, however, were not calculated.

Exhibit 9
Non-labor Support Costs Per Position

Position	Non-labor Support Cost
Traffic Police Officer	\$434
Dispatcher	\$289
Sr. Records Clerk	\$1,544

For a traffic police officer, a major non-labor cost is the operating and depreciated cost of a motorcycle. According to the Traffic staff, a motorcycle's capital cost is \$25,000 with a life cycle mileage of 50,000 miles over four years. The operating cost is 32 cents per mile. Based on a life of four years and about 12,500 miles per year the annual operating cost of a motorcycle is \$10,250. Depreciation represents \$6,250 and operating costs are \$4,000.

Department-wide and Division/Bureau/Section Overhead Costs

To calculate a fully loaded hourly rate, the Department, Division, Bureau, and Section overhead costs should also be included. These costs include various units (e.g. the Chief's Office, Personnel, Fiscal Affairs, Information Services, etc.) that provide support to the direct service divisions such as Patrol and Investigative Services. As previously described, eleven units that provide general support were identified and included as part of the cost of service analysis. The total FY2011 cost that was allocated for these units was \$23,348,104. Appendix A shows the allocations based on the filled positions. Some notes regarding these FY2011 costs include the following:

- * For the Chief's Office, \$99,593 in County jail booking costs were not included as part of the overhead costs,
- * For the Administrative Services cost, all the fleet related costs (\$4.4 million) were not included because the specific motorcycle costs were calculated separately. However, the other Citywide indirect charges for the Department (e.g. City Attorney charges, Purchasing, Budget Division, Internal Audit, etc.) were included as part of the overhead costs.
- * Costs were allocated to the different divisions and units based on the filled positions as of July 5, 2011. The one exception involved the costs for the Property, Evidence, Equipment, and Supplies unit which were allocated only to the Patrol, Investigative Services, the Accountability and Compliance Bureau, and part of the Internal Affairs Bureau. It was assumed that the other units do not generally use the unit's services.

In addition to the Department overhead costs, the specific overhead costs associated with Traffic, Traffic Safety, the Tow Unit, Records, and Communications were also calculated. These overhead costs were identified in the following manner:

- * For the Traffic Enforcement Unit, the Neighborhood Traffic Unit, and the Traffic Safety Unit, the overhead costs for these units consist of several layers of overhead costs that have been allocated within the Patrol Division and the Traffic/Field Services Bureau. Costs that have been allocated to these units based on the number of positions in the Division and in the Bureau include a share of Department overhead, Patrol Administration, and Traffic Safety/Field Services Bureau administration (i.e. Captain and Sergeant). Additional overhead costs for the Tow Unit in Traffic Safety include a share of the costs allocated to the Traffic Safety unit and the cost of the Section's Lieutenant. The phlebotomist position was also allocated a share of the Traffic Safety's overhead costs.
- * For Communications, the overhead costs include the Bureau's Lieutenant and the allocated share of the Department overhead.
- * For Records, the overhead costs include a share of the Records and Information Services Bureau's manager based on the number of positions in each section and an allocated share of the Department overhead.

Based on these allocations, an overhead cost per position was calculated for Department, division, bureau and section overhead, and Exhibit 10 shows the overhead costs allocated to the three primary positions.

Exhibit 10
Allocated Overhead Costs Per Position

Overhead Cost Category	Traffic Police Officer	Dispatcher	Sr. Records Clerk
Division/Bureau/Section	\$5,030	\$2,199	\$3,590
Department-wide	\$24,939	\$23,852	\$23,564
Total	\$29,969	\$26,051	\$27,154

Hourly Rate Calculations

To calculate the hourly rate for each position, the total costs per position were added together and then divided by the hours available to perform their work. As noted in the previous chapter, the first step is to identify the number of direct productive hours for each position. Based on leave data from FPD, the average leave and time off taken for each position's unit was calculated. In addition, 100

hours for administration and other non-productive time also reduced the amount of productive time. Exhibit 11 shows the net productive hours per position.

**Exhibit 11
Productive Hours by Position**

Category	Traffic Police Officer	Dispatcher	Sr. Records Clerk	Sr. Community Service Officer	Phlebotomist
Total Paid Hours	2,080	2,080	2,080	2,080	2,080
Leave/Time Off	252	319	340	449	350
Admin. Hours	100	100	100	100	100
Net Productive Hours	1,728	1,661	1,640	1,531	1,630

For each position a fully loaded hourly rate can be established based on all the costs associated with a position and the number of productive hours. Exhibits 12, 13, 14, 15, and 16 show all the costs and the hourly rate.

**Exhibit 12
Traffic Police Officer**

Traffic Police Officer	Cost
Salary & Benefits	\$ 125,475
Division/Bureau Admin	\$ 5,030
Department Admin	\$ 24,939
Support Costs	\$ 434
Motorcycle Costs	\$ 10,250
Total Officer Cost	\$ 166,128
Productive Work Hours	1,728
Hourly Rate	\$ 96.14

**Exhibit 13
Dispatcher**

Dispatcher	Cost
Salary & Benefits	\$ 74,030
Support Costs	\$ 289
Communications Admin	\$ 26,051
Total Dispatcher Cost	\$ 100,370
Productive Work Hours	1,661
Hourly Rate	\$ 60.43

Exhibit 14
Sr. Records Clerk

Sr. Records Clerk	Cost
Salary & Benefits	\$ 58,633
Support Costs	\$ 1,544
Records and Dept Admin	\$ 27,154
Total Sr. Records Clerk Cost	\$ 87,331
Productive Work Hours	1,640
Hourly Rate	\$ 53.25

Exhibit 15
Sr. Community Service Officer

Sr. Community Service Officer	Cost
Salary & Benefits	\$ 67,616
Support Costs	\$ -
Admin Costs	\$ -
Total SCSO	\$ 67,616
Productive Work Hours	1,531
Hourly Rate	\$ 44.16

Exhibit 16
Phlebotomist

Phlebotomist	Cost
Salary & Benefits	\$ 59,213
Support Costs	\$ -
Traffic Admin	\$ 51,343
Total Phlebotomist Cost	\$ 110,556
Productive Work Hours	1,630
Hourly Rate	\$ 67.83

Tow Unit and Electronic Ticket Writer Costs

The previous costs were calculated by position, but the Tow Unit costs and costs associated with the electronic ticket writers were calculated in a different manner because they are not related to a position or the time spent on each impound. In Chapter 1, the Tow Unit's responsibilities were described and consist of overall management of the towing and impound program. The Tow Unit consists of two staff members, a police officer and a records supervisor. Other costs include non-labor support costs for supplies as well as computer equipment for the Tow Unit's hardware and software needs. Exhibit 17 shows the estimated cost of the unit.

**Exhibit 17
Tow Unit Costs**

<u>Cost Category</u>	<u>Cost</u>
Salaries and Benefits	\$216,141
Non-Labor Support	2,707
Dept./Bureau/Section Overhead	<u>102,687</u>
Total	\$321,535

Because the Tow Unit's activities benefit the whole program, a method is needed to spread the cost of the program over all the tows and impounds. One method is to add a cost per tow and impound to the more direct costs based on the labor time. In FY2011, there were 14,418 impounds, and based on this number, the Tow Unit's cost per impound is \$22.30.

Another similar situation for identifying costs involves the electronic ticket writers. The Traffic/Field Services Bureau purchased 80 electronic ticket writers and related equipment in November 2010. The total cost was about \$300,000. The ticket writers are used for all the traffic citations and not just those related to vehicle impounds. To determine the cost related to the vehicle impounds, the annual operating and depreciation costs were identified, and then a cost per citation was calculated. Working with Traffic staff, a five year replacement schedule was established for all the equipment and some warranty costs. However, the printer warranty was for only two years. Exhibit 18 shows the capital and annual cost for a ticket writer.

**Exhibit 18
Electronic Ticket Writer Costs**

Equipment	Capital Cost	Annual Cost
Motorola MC75A	\$ 1,729.00	\$ 345.80
Mag stripe reader	\$ 154.00	\$ 30.80
Cradle kit	\$ 126.00	\$ 25.20
USB cable	\$ 10.50	\$ 2.10
Battery replacement	\$ 70.00	\$ 14.00
5 year comprehensive. coverage	\$ 519.00	\$ 103.80
Charging cable	\$ 25.00	\$ 5.00
Power supply	\$ 26.00	\$ 5.20
Line cord	\$ 3.50	\$ 0.70
Mobile printer	\$ 613.00	\$ 122.60
Charger	\$ 65.25	\$ 13.05
Printer warranty	\$ 180.50	\$ 90.25
Total Amortized Cost	\$ 3,521.75	\$ 758.50
Total paper cost per year	\$ 6,000.00	\$ 75.00
Total Annual Cost		\$ 833.50

In FY2011 the total citations written were 63,238, and with 80 electronic ticket writers, the average number of citations per unit is about 790 citations. Based on 790 citations a year, the average ticket writer cost per citation is \$1.05.

Cost of Service Analysis

Based on the above cost calculations, the cost of service analysis involves calculating the costs based on the amount of time, the hourly rates for each position, and the other added costs. Based on the analysis the costs for the five tow and impound categories range from about \$98 for an accident blocking a roadway to a DUI at a cost of \$472 per impound. Exhibit 19 summarizes the costs by category, and Exhibits 20, 21, 22, 23, 24 show the calculations.

Exhibit 19
Cost of Service by Tow and Impound Category

Tow and Impound Category	Cost of Service
Vehicle Accident Blocking a Roadway	\$98
Illegally Parked/Abandoned Vehicle	\$116
Unlicensed Driver/Expired Registration	\$189
Arrested/Suspended Driver	\$266
DUI Driver	\$472

Exhibit 20
Vehicle Accident Blocking a Roadway

Cost Category	Minutes	Hourly Rate	Cost
Police Officer	46	\$ 96.14	\$ 73.71
Dispatcher	2	\$ 60.43	\$ 2.01
Sr. Records Clerk		\$ 53.25	\$ -
Total Direct Cost			\$ 75.72
Tow Unit Cost			\$ 22.30
Handheld Cost per Impound			\$ -
Total Cost			\$ 98.02

Exhibit 21
Illegally Parked/Abandoned Vehicle

Cost Category	Minutes	Hourly Rate	Cost
Police Officer	46	\$ 96.14	\$ 73.71
Dispatcher	2	\$ 60.43	\$ 2.01
Sr. Records Clerk	20	\$ 53.25	\$ 17.75
Total Direct Cost			\$ 93.47
Tow Unit Cost			\$ 22.30
Handheld Cost per Impound			\$ -
Total Cost			\$ 115.77

Exhibit 22
Unlicensed Driver/Expired Registration

Cost Category	Minutes	Hourly Rate	Cost
Police Officer	91	\$ 96.14	\$ 145.81
Dispatcher	2	\$ 60.43	\$ 2.01
Sr. Records Clerk	20	\$ 53.25	\$ 17.75
Total Direct Cost			\$ 165.58
Tow Unit Cost per Impound			\$ 22.30
Handheld Cost per Impound			\$ 1.05
Total Cost			\$ 188.93

Exhibit 23
Arrested/Suspended Driver

Cost Category	Minutes	Hourly Rate	Cost
Police Officer	121	\$ 96.14	\$ 193.88
Dispatcher	2	\$ 60.43	\$ 2.01
Sr. Records Clerk	20	\$ 53.25	\$ 17.75
PLO unit Sr. Community Service Officer	40	\$ 44.16	\$ 29.44
Total Direct Cost			\$ 243.09
Tow Unit Cost			\$ 22.30
Handheld Cost per Impound			\$ 1.05
Total Cost			\$ 266.44

Exhibit 24
DUI Driver

Cost Category	Minutes	Hourly Rate	Cost
Police Officer	241	\$ 96.14	\$ 386.16
Dispatcher	2	\$ 60.43	\$ 2.01
Sr. Records Clerk	20	\$ 53.25	\$ 17.75
Phlebotomist	5	\$ 67.83	\$ 5.65
PLO unit Sr. Community Service Officer	50	\$ 44.16	\$ 36.80
Total Direct Cost			\$ 448.38
Tow Unit Cost			\$ 22.30
Handheld Cost per Impound			\$ 1.05
Total Cost			\$ 471.73

CHAPTER 4: COST RECOVERY ANALYSIS

As previously mentioned in Chapter 1, FPD has only two vehicle impound fees, and they do not distinguish among the different types of vehicle tows and impounds. With the proposed changes to the towing company contracts, new software and technology, and the new release procedures, FPD needs to make changes to its fees because the current fees were based on some procedures and activities that will no longer exist. Under the current fees, the chronic fee is added when drivers are unlicensed or suspended or have been stopped for DUI or street racing. If FPD kept the current fees, its costs for towing cars from vehicle accidents would not be reimbursed at all. At the same time it would be charging more for towing and impounding illegally parked and abandoned vehicles, unlicensed drivers, vehicles with expired registrations, and arrested/suspended drivers. For DUI drivers FPD would be charging significantly less than the cost of service. Exhibit 25 compares the cost of service to the current fees.

Exhibit 25
Cost Recovery by Vehicle Impound Category

Tow and Impound Category	Cost of Service	Current Fee	Difference (cost minus fee)
Vehicle Accident Blocking a Roadway	\$98	\$0	\$98
Illegally Parked/Abandoned Vehicle	\$116	\$184	(\$68)
Unlicensed Driver/Expired Registration	\$189	\$294	(\$105)
Arrested/Suspended Driver	\$266	\$294	(\$28)
DUI Driver	\$472	\$294	\$178

For some perspective about the impact of the differences in FY2011, the largest number of vehicle impounds out of the 14,418 impounds occurred when there was a driver with a suspended license. About 46% of the vehicle impounds involved a suspended license, 25% were for unlicensed drivers, and 17% were for DUI drivers. When a fee is less than the cost of service, other revenue sources must make-up the difference. For example, with 2,495 DUI impounds in FY 2011, the revenue from the \$294 fee generated about \$734,000. In contrast, the cost of those impounds was about \$1.2 million, a difference of about \$466,000 that had to come from surpluses from other fees or the City's General Fund.

The next step in the process involves setting the appropriate cost recovery policies and then applying those policies to the fees and the fee structure. The Traffic/Field Service Bureau will be reviewing the cost of service and the cost recovery analyses and will prepare its recommendations to FPD management and the appropriate City officials and staff.

APPENDIX A: DEPARTMENT OVERHEAD ALLOCATIONS

Appendix A
Department Overhead Allocations

Org. Unit	Patrol	Investigative Services	Support	Communications	Records	Professional Standards	Total Allocated
Filled Positions	537	225	77.46	83	20.54	24	967
Chief	\$1,436,861	\$602,037	\$207,261	\$222,085	\$54,959	\$64,217	\$2,587,420
Public Info	\$60,098	\$25,181	\$8,669	\$9,289	\$2,299	\$2,686	\$108,221
Personnel	\$419,828	\$175,906	\$60,558	\$64,890	\$16,058	\$18,763	\$756,003
Fiscal Affairs	\$354,628	\$148,587	\$51,154	\$54,812	\$13,564	\$15,849	\$638,595
Property & Evidence	\$388,419	\$162,745	\$0	\$0	\$0	\$10,126	\$561,291
Planning & Research	\$5,118	\$2,144	\$738	\$791	\$196	\$229	\$9,216
Training	\$1,092,442	\$457,727	\$157,580	\$168,850	\$41,785	\$48,824	\$1,967,209
Admin Svcs	\$7,938,280	\$3,326,095	\$1,145,064	\$1,226,959	\$303,636	\$354,783	\$14,294,817
Information Svcs	\$552,585	\$231,530	\$79,708	\$85,409	\$21,136	\$24,697	\$995,064
Employee Svcs	\$246,065	\$103,100	\$35,494	\$38,032	\$9,412	\$10,997	\$443,100
Internal Affairs	\$548,200	\$229,693	\$79,076	\$84,731	\$20,968	\$24,501	\$987,168
Total	\$13,042,523	\$5,464,744	\$1,825,301	\$1,955,848	\$484,014	\$575,673	\$23,348,104

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
WHICH GRANTS TO CERTAIN TOWING OPERATORS A NON-
EXCLUSIVE FRANCHISE TO PARTICIPATE IN THE FRESNO
POLICE DEPARTMENT'S TOW CAR ROTATION LIST

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance effectuates the terms and conditions set forth in the Franchise Documents executed by the City and those towing operators identified in Exhibit "A" attached hereto and incorporated by reference.

SECTION 2. Words and phrases appearing in this section shall have the meanings stated in this section. Words or phrases that are not defined herein, that are defined in any Franchise Document, shall have the same meaning herein as defined in the Franchise Document, unless it is apparent from the context that they have a different meaning.

- (a) "Grantee" shall mean those tow operators identified in Exhibit "A."
- (b) "Franchise Documents" shall mean and shall include all of the following:
 - (1) Article XIII of the Charter of the City of Fresno.
 - (2) Chapter 9, Article 17, of the Fresno Municipal Code.
 - (3) The City of Fresno Non-Exclusive Franchise Tow Agreement for Fresno Police Department.
 - (4) The written acceptance of the granting of a Non-Exclusive Tow Services Franchise to Grantee.
 - (5) Resolution No. _____, "Resolution of Intention to Establish Non-Exclusive Towing Operation Franchises and Set a Date for Public Hearing."
 - (6) This Ordinance.
 - (7) Any and all documents which are referred to, defined, or described in any of the foregoing as "Franchise Documents."
- (c) "Franchise Fee" shall mean any and all compensation or other consideration paid directly or indirectly to the City for the non-exclusive right to perform City generated tows

pursuant to, and in the amount defined in the non-exclusive franchise agreement, and other rates established by the non-exclusive franchise agreement.

SECTION 3. Non-Exclusive Franchise authorizing and permitting the Grantee to do all things described by the Franchise Documents is hereby granted to those towing operators identified in Exhibit "A," who have provided written acceptance to the terms and conditions set out in the Franchise Documents.

SECTION 4. The term of the Franchise shall be for a period of 3 years from the date of final passage of this Ordinance.

SECTION 5. Grantee shall pay to the City, the franchise/administrative fees pursuant to, and in accordance with the Non-Exclusive Franchise Tow Agreement.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective and in full force and effect at 12:01 a.m., on the thirty-first day after its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the ____ day of _____, 2011.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2011
Mayor Approval/No Return: _____, 2011
Mayor Veto: _____, 2011
Council Override Vote: _____, 2011

REBECCA E. KLISCH

City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
City Attorney's Office

By: Tei Yukimoto
Tei Yukimoto, Sr. Deputy

TY:cg[57207cg/ORD]10.19.11

Attachment: Exhibit "A"

EXHIBIT “A”

FRESNO POLICE DEPARTMENT ROTATION					
COMPANY	ADDRESS	CITY	ZIP	PHONE	OWNER/MANAGER
76 TOWING	1805 N. LAFAYETTE	FRESNO	93705	559-486-7033	RICHARD McCRACKEN
A&R TOWING	3282 W LANSING WAY	FRESNO	93722	559 225-9364	ALICE FRANTZICH
ACE TOWING	1420 N. HUGHES	FRESNO	93728	559 222-4236	ACE AVEDESAN
ACTION TOWING	2822 E. CALIFORNIA	FRESNO	93721	559 498-9999	JOHN DECCICO
ARK TOWING	3265 W. SAGINAW WAY	FRESNO	93722	559 222-7609	CRAIG FRANZICH
B&K TOWING	3208 W. LANSING WAY	FRESNO	93722	559 226-4233	BENNY BARNES
BAUERS TOWING	103 N. THORNE	FRESNO	93706	559 226-4233	ED MASON
BUDGET TOWING	4066 E. CHURCH	FRESNO	93725	559 283-2090	DON BARTLETT
BULLDOG TOWING	1805 N. LAFAYETTE	FRESNO	93705	559 486-7038	KEVIN MCCRACKEN
C&K TOWING	3265 W. SAGINAW WAY	FRESNO	93722	559 226-0140	RYAN REEVES
CURTIS TOWING	6944 N. VAN BUREN	FRESNO	93722	559 275-1000	DENISE CURTIS
CUSTOM TOWING	1420 N. HUGHES	FRESNO	93728	559 288-2218	KEN JOHNSON
D&B TOWING	4619 E. WHITE	FRESNO	93702	559 255-4981	ROBERT BARNES
D&K TOWING	4568 E. HOME	FRESNO	93703	559 251-8270	DAVID BOYKO
DENNIS TOWING	1801 SACRAMENTO	FRESNO	93721	559 226-8219	DENNIS AVEDESAN
DISCOUNT TOWING	1326 N. JACKSON	FRESNO	93703	559 229-2700	ROY JOHNSON
ECONO TOWING	1523 N. MAPLE	FRESNO	93703	559 456-9310	ROBERT KODMAN
ED NIC TOWING	4533 E. FLORADORA	FRESNO	93702	559 252-2541	JAY BRUNO
FORTNEY TOWING	2501 N. BUSINESS PARK	FRESNO	93727	559 292-1114	DEBBIE FORTNEY
FRONTIER TOWING	4784 E. CARMEN	FRESNO	93703	559 974-0465	CHRIS CLARK
HERNDON TOWING	5030 E. JENSEN	FRESNO	93725	559 431-3334	JAMES DEATHERADGE
JOHNSON BROTHERS TOWING	2622 W. MCKINLEY	FRESNO	93703	559 226-0629	SHAUN JOHNSON
KEVINS TOWING	3223 W. SAGINAW WAY	FRESNO	93722	559 227-7930	KEVIN BARNES
LAMONA TOWING	2740 E. JENSEN	FRESNO	93706	559 237-9159	DOUG DUNBAR
LUCERO TOWING	1334 N. JACKSON	FRESNO	93703	559 452-1208	VIRGINIA LUCERO
MIKES TOWING	4549 E. PINE	FRESNO	93703	559 251-2361	MIKE DOCKSTADER
NELLYS TOWING	2038 E. JENSEN	FRESNO	93706	559 273-6619	JUAN FLORES
RAYS TOWING	1463 N. MAPLE	FRESNO	93703	559 251-5244	MONTE EVANS
REYNA TOWING	1901 E. HEDGES	FRESNO	93703	559 485-8236	RAUL REYNA
ROBINSONS TOWING	1830 E. UNIVERSITY	FRESNO	93703	559 233-9185	LARRY ANDRES
ROMOS TOWING	4625 N. GOLDEN STATE	FRESNO	93722	559 275-4823	RAUL ROMO
RON'S TOWING	3252 W. LANSING WAY	FRESNO	93722	559 227-9364	RON FRANTZICH
STEVES TOWING	2005 W. HEDGES	FRESNO	93728	559 224-1370	MIGUEL VALDOVINOS
TESHAS TOWING	4582 E. HOME	FRESNO	93703	559 268-8635	ART VAILE
THRIFTY TOWING	4066 E. CHURCH	FRESNO	93725	559 259-3663	PATRICK BARTLETT
TIPS TOWING	2914 N. PHILLIP	CLOVIS	93612	559 227-4840	JEFF BANKS
TOW CITY	1380 N. SIERRA VISTA	FRESNO	93703	559 251-6770	RAE BURTON
WALTS TOWING	1820 E. UNIVERSITY	FRESNO	93703	559 307-2804	CRAIG LAWLEY
WES TOWING	1260 N. SIERRA VISTA	FRESNO	93703	559 486-8864	STEVE REYNOLDS